

FINDINGS OF FACT *

1. The Respondent is Plum Entertainment, LLC (hereinafter "Plum Entertainment"). (N. T. 27, 365, 369, 417).
2. Plum Entertainment was formed in or about 2004 and became a member of Five Plum LLC, a co-venture with the Women and Cancer Fund, (hereinafter "WCF"). (N. T. 365, 463, 486, 546).
3. Following Linda McCartney's death, Plum Entertainment was formed to attempt to produce a tribute music CD, ostensibly to raise money for cancer research. (N. T. 29, 365).
4. Carl Cutts, (hereinafter "Cutts") was the owner and President of Plum Entertainment. (N. T. 32, 255, 364).
5. Plum Entertainment had five members: Cutts, John Robertson, Michael Kurtz, Gary Zarzycki and Mark Ziegenfuss. (N. T. 417, 477, 545).
6. Cutts had a 51% ownership interest in Plum Entertainment. (N. T. 417, 479).
7. Cutts and John Robertson, (hereinafter "Robertson") each had a 33 and 1/3% creative share in Plum Entertainment, with each of the three other members having an 11% creative share. (N. T. 417, 479-480).

* To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Facts. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

N. T. Notes of Testimony
C. E. Complainant's Exhibit
R. E. Respondent's Exhibit
W.D. Deposition of Kerri Walsh

8. Each of the five members of Plum Entertainment had a 20% share of the operation. (N. T. 417, 479).
9. Robertson was Plum Entertainment's CEO. (N. T. 41, 255, 477).
10. Michael Kurtz's, (hereinafter "Kurtz") title was Product Manager. (N. T. 497).
11. Both Cutts and Robertson had signed employment agreements with Plum Entertainment which set forth their salaries and the terms and conditions of their employment. (N. T. 369, 481; C. E. 13, 17).
12. Kurtz was generally in Plum Entertainment's offices daily, received compensation for his services and was supervised by Cutts. (N. T. 490).
13. In the fall of 2004, Plum Entertainment also employed Eliana Kelly (hereinafter "Kelly") as Plum Entertainment's Arts and Repertoire Administrator. (N. T. 303, 359, 541).
14. Kelly was hired by Cutts and Robertson and worked primarily for Robertson. (N. T. 304, 305).
15. Kelly, Robertson and Kurtz normally worked 9:00 a.m. to 5:00 p.m., Monday through Friday, at Plum Entertainment's offices on Bridge Street in New Hope. (N. T. 34, 306).
16. Cutts had supervisory authority over Anne Marie Dorland, Plum Entertainment's bookkeeper. (N. T. 378-379).
17. The Complainant in this case is Sharon Sheridan (hereinafter "Sheridan"). (N. T. 26, 210-211).
18. In the late summer of 2004, Sheridan was looking to make a change from her job selling gift items for Roman, Inc. (N. T. 27, 203).

19. Sheridan had been with Roman, Inc. for approximately seven years and before Roman sold gift items for Enesco for ten years. (N. T. 203; R.E. 5).
20. Debbie Jay, a friend of Sheridan's, forwarded an e-mail she had received, which generally advised that a President of an entertainment company was looking for a personal assistant. (N. T. 27, 28, 51, 95).
21. Sheridan was interviewed by Cutts and Robertson for the position of Cutts' personal assistant. (N. T. 28).
22. During the interview, Cutts told Sheridan that Plum Entertainment was doing a 24 track CD/DVD as a dedication to Linda McCartney, with hopes of raising money for the WCF. (N. T. 29).
23. Cutts told Sheridan that the details of the assistant job would be developed as the project went along. (N. T. 29, 387).
24. During the interview, Cutts asked Sheridan if she had a boyfriend, to which Sheridan replied that she had a recent bad breakup and she was trying to make a change. (N. T. 29).
25. In late August 2004, Cutts hired Sheridan to be his personal assistant. (N. T. 27, 387).
26. Sheridan's salary was set at \$60,000 per year, and Sheridan testified that shortly after being hired, Cutts also offered Sheridan 5% of any money raised for the project. (N. T. 31, 188, 197, 231, 232, 244, 273; R.E. 1, at 9).
27. Initially, Sheridan began coming to Plum Entertainment's office at approximately 10:00 a.m. and would stay until approximately 6:00 p.m. (N. T. 32, 37).
28. Without specific tasks assigned to her, Sheridan attempted to help Kelly write

a script for the head of WCF, Alicia Alvarez, (hereinafter "Alvarez"), looked for performance arenas, and assisted Kelly and Alvarez in creating an electronic press kit. (N. T. 32-33).

29. Often, Sheridan would just sit at her desk doing nothing. (N. T. 33).
30. In the first few weeks of Sheridan's employment, Sheridan received a call at the office from a male friend. (N. T. 46).
31. Cutts became upset, got up, threw papers and walked out saying "if everyone can have you, then they can have you." (N. T. 46, 323; R.E. 1, at 46).
32. Cutts did not return to the office for several days. (N. T. 46).
33. Sheridan repeatedly attempted to call Cutts who finally responded saying, "I emotionally couldn't take it" and that he had to go to Mars and Venus for a while, but was back now. "I'm going to get my emotions under control." (N. T. 46).
34. On a separate occasion, while Sheridan and Cutts were sitting in a booth having lunch with Alvarez, Cutts kept moving closer and closer to Sheridan until she was wedged against the side. (N. T. 47, 49).
35. Cutts informed Alvarez that Sheridan comforts him, so he needed to be close to her. (N. T. 49).
36. Another time, while working at her computer in the office, Cutts was explaining a program and was standing so close to Sheridan that she was able to feel his privates pressed against her. (N. T. 50).
37. As Sheridan attempted to move away, Cutts followed her with his body, causing Sheridan to freeze. (N. T. 50)
38. Only when Sheridan began acting uncomfortable did Cutts move away. (N. T. 51).

39. In October 2004, Cutts called Sheridan saying that he had something important to talk to her about, that Sheridan should not come into the office, but just drive to the office parking lot and call him. (N. T. 37).
40. Cutts instructed Sheridan to drive north, that he wanted to see green trees. (N. T. 37).
41. Cutts and Sheridan went on a three hour drive, during which no business was discussed. (N. T. 37-38).
42. Near the end of the drive, Cutts asked Sheridan if she had spoken with Robertson.
43. He asked because he had seen her speaking with him the previous evening, that she had started the conversation and that as he watched her body language, he felt she had leaned in towards Robertson. (N. T. 38, 40, 41; R. E. 1, at 72).
44. Cutts instructed Sheridan not to go into the office unless he was there and not to talk either to Robertson or anyone else at the office. (N. T. 40-41, 189, 252-253; R.E. 1, at 23-24, 44, 71).
45. Sheridan was instructed to call Cutts each day to see if there was work and whether Sheridan was needed at the office. (N. T. 388, 395, 419; R. E. 1, at 23-24; R. E. 5, at 45).
46. On several occasions prior to November 8, 2004, Sheridan spoke with Cutts about his behavior. (N. T. 46).
47. By November 8, 2004, Cutts' inappropriate behavior towards Sheridan had become both more frequent and more advanced, causing Sheridan to begin to document incidents on her private calendar. (N. T. 42, 44, 46; C. E. 1).

48. Cutts' behavior also caused Sheridan to visit a doctor early in November 2004, seeking treatment for stress. (N. T. 52; C. E. 1).
49. On November 9, 2004, Cutts instructed Sheridan to remain at home while Kelly attended to the needs of a producer from England, because Cutts thought the producer had looked at Sheridan. (N. T. 52-53; R. E. 1 at 84).
50. The English producer gave Sheridan a stuffed dog which Cutts later threw on the floor. (N. T. 53).
51. After November 9, 2004, Cutts no longer wanted to work with this producer because he thought he was interested in Sheridan. (N. T. 53).
52. On the evening of November 9, 2004, Cutts and Sheridan attended a dinner meeting with the English producer where Cutts became intoxicated, put his arm around Sheridan and leaned on her as they walked through the restaurant. (N. T. 53, 54).
53. Because Cutts was intoxicated, Sheridan drove him home on the evening of November 9, 2004. (N. T. 54).
54. When Sheridan dropped Cutts off, Cutts invited Sheridan into his home and Sheridan refused saying "absolutely not." (N. T. 55).
55. Just before Sheridan left, Cutts told Sheridan to stop treating him like a rapist and "get in here." (N. T. 55; R. E. 1, at 18).
56. That night, Cutts called Sheridan's home telephone repeatedly and left several messages for her, including a message stating that her ex-boyfriend is not the man who loves you, "I do." (N. T. 54, 164, 166, 286).
57. On November 10, 2004, Sheridan discussed the events of November 9, 2004 with Kurtz, who told Sheridan that he felt sorry for her, and that Cutts had called him around 2:00 a.m. to tell him he told Sheridan he loved her but regretted saying it. (N. T. 56-57; R. E. 1, at 21, 40, 68).

58. Thereafter, Sheridan was not asked to work for several days until she called Cutts on November 14, 2004, requesting that Cutts meet her in the office on the 15th. (N. T. 57; R. E. 1, at 24).
59. During Sheridan's meeting with Cutts on November 15, 2004, she explained to him that his behavior towards her was inappropriate for an employment relationship. (N. T. 57; R. E. 1, at 24-25).
60. As Sheridan was explaining that she liked working for Plum Entertainment, but that there was a need for clarity regarding what Cutts could and could not say to her, Cutts abruptly stood and walked out. (N. T. 57-58; R. E. 1, at 24).
61. Later, Sheridan called Cutts, leaving him a message about how disrespectful he had been while she was attempting to tell him something important. (N. T. 50).
62. Eventually, Cutts called Sheridan, telling her that he never had feelings like this before and that Sheridan had hit him like a ton of bricks. (N. T. 58).
63. Cutts also told Sheridan that the day he interviewed her for the job, he felt that knew Sheridan from another life. (N. T. 58-59).
64. Sheridan told Cutts that she does not share his feelings and that she wanted to continue working on the project, but things had to get under control. (N. T. 59).
65. Cutts responded by telling Sheridan it would not surface again. (N. T. 59).
66. On November 17, 2004, Sheridan was out and had met a local producer, so she called Cutts to come meet him. (N. T. 59).
67. Cutts came, met the producer and left. (N. T. 60).
68. Later, when Sheridan called Cutts, Cutts told her he could not stand to see her hold someone else's hands. (N. T. 60; R. E. 1, at 27).

69. On November 25, 2004, Cutts told Sheridan that she could not socialize with Kelly. (N. T. 60-61; R. E. 1, at 28).
70. Sheridan responded by telling Cutts that she thinks Cutts does not want her to socialize with Kelly because Kelly is single, vivacious and very sociable, and if Sheridan is with Kelly, there is an opportunity to meet men. (N. T. 61; R. E. 1, at 29).
71. Cutts replied, "You're 100% correct." (N. T. 61).
72. In November 2004, Cutts offered to have Sheridan work on the other side of the office because, as he said, it was becoming difficult for him to be around Sheridan. (N. T. 61).
73. Cutts also offered to design a position for Sheridan with WCF, and when Sheridan declined, Cutts responded, "I don't think you understand. I'm offering to pay you to stay at home". (N. T. 62).
74. Sheridan declined, telling Cutts that would not be good for her self-esteem or her professionalism. (N. T. 62).
75. On December 13, 2004, Sheridan was at a dinner with Cutts, a local music producer and his wife. (N. T. 66-67).
76. That evening, near Sheridan's car, Cutts attempted to hug Sheridan, but she backed away. (N. T. 67; R.E. 1, at 30).
77. The following day, Cutts called Sheridan, asking if he made her feel uncomfortable when he went to touch her, to which Sheridan replied, "yes." (N. T. 67; R. E. 1, at 30).
78. Again, Cutts expressed to Sheridan that he had feelings for her, to which Sheridan replied that she did not want Cutts touching her and she does not want to hug him. (N. T. 67).

79. Later, while attending a Christmas party at Robertson's home, Sheridan told Robertson that Cutts was, "driving her nuts." (N. T. 510, 547-548).
80. Sheridan told both Robertson and his wife that Cutts had an interest in her and that he was strange. (N. T. 583, 587; R. E. 1, at 80).
81. Robertson told Sheridan they knew and they felt sorry for her. (N. T. 583-584; R. E. 1, at 80).
82. Other things Cutts did that offended Sheridan and made her concerned include:
- a) having a photograph of Sheridan on his cell phone. (N. T. 149; R.E. 1, at 45).
 - b) telling Sheridan her body is perfect the way it is and that in his mind he could tell what she would look like naked, even with her clothes on. (N. T. 151-152).
 - c) telling Sheridan her lips were perfect. (N. T. 152).
 - d) telling her he knew her from another world. (N. T. 152).
 - e) telling Sheridan's roommate, Kimberly Daigle, that he loved Sheridan. (N. T. 285).
 - f) calling Sheridan incessantly when she was out with Kelly. (N. T. 324).
 - g) having Sheridan in his office all day with the lights off and music playing. (N. T. 319).
 - h) Sending Sheridan poems. (R.E. 1, at 64-65).
 - i) telling Sheridan not to invite Kurtz to her home for a dinner party, because Kurtz was not allowed to come to her home. (N. T. 96).
 - j) telling Sheridan he would only call her at her home phone number and not her cell phone, causing Sheridan to have to stay home all the time. (N. T. 81, 197).
 - k) telling Kelly numerous times not to socialize with Sheridan. (N. T. 343-344).
 - l) making Sheridan's friend, Kerri Walsh, feel awkward and uncomfortable as Cutts tried to touch and grab Sheridan at a dinner party. (W.D. at 9-10, 16).
 - m) telling Walsh, who he just met, that he loves Sheridan so much, and no one will ever love her like he does. (W.D. at 5, 8-9).
83. In December 2004 and January 2005, Sheridan saw her family doctor because she was crying a lot and not sleeping. (R.E. 5, at 15 38, 41).
84. Sheridan was prescribed Wellbutrin for anxiety/depression. (N. T. 41).

85. Everyone in the office often witnessed Sheridan upset and crying over the way Cutts treated her. (N. T. 289, 292, 325, 507, 519).
86. By January 2005, Sheridan was crying more often and becoming more nervous. (N. T. 73).
87. On January 16, 2005, Sheridan accompanied Cutts to Atlantic City to meet with the Jersey Boys the following day. (N. T. 77-78).
88. While meeting with the Jersey Boys, Cutts leaned on Sheridan and inched closer and closer to her in the booth in which they were sitting. (N. T. 78, 172, 175; R.E. 1, at 32).
89. Cutts also told Sheridan not to have conversations with one of the group because he had seen her speaking with him. (N. T. 78).
90. In February, Sheridan and others, including Cutts, attended the Grammys in Los Angeles. (N. T. 80).
91. On February 14, 2005, while still in California, Cutts had a rose put at the door of Sheridan's hotel room. (N. T. 80; R.E. 1, at 34).
92. On February 28, 2005, Cutts called Sheridan, told her he could not talk, that he was too emotional, and he would call when he "got it together." (R.E. 1, at 36).
93. On March 3, 2005, once again, Cutts relayed to Sheridan his feelings for her, that he could not handle it and he was still trying to get it together. (N. T. 82, 84; R.E. 1, at 37).
94. On March 19, 2005, Cutts called Sheridan, and told her to meet him at a restaurant. (N. T. 85).
95. Sheridan met with Cutts, however no business was discussed as Cutts simply wanted to be near her socially. (N. T. 85).

96. Approximately 15 times previously Cutts had Sheridan meet him at restaurants where no business had been discussed. (N. T. 86).
97. By March 26, 2005, Sheridan was back to see her doctor as she felt more depressed over Cutts' behavior and his attempted manipulation of her life. (N. T. 87).
98. Sheridan only saw Cutts once in March 2005, but remained available for work by telephone. (N. T. 8).
99. In April 2005, Sheridan continued to call Cutts as instructed and sometimes he would answer and sometimes he would not. (N. T. 91-92; R.E. 1, at 39).
100. Sheridan did not see Cutts in April 2005. (N. T. 216).
101. On May 2, 2005, Cutts called Sheridan's home 11 times to discuss her attendance at a bachelorette party on April 30, 2005, to which she should not have gone. (N. T. 93, 234).
102. Sheridan informed Cutts that he could not tell her how to conduct her personal life. (N. T. 95-96).
103. On May 4, 2005, Cutts told Sheridan that she was not allowed to go to her friend's wedding on May 6, 2005 because her friend is a "bad person." (N. T. 95, 235).
104. Cutts told Sheridan to decide what was more important, her job or her personal life. (N. T. 96).
105. On May 10, 2005, by telephone, Sheridan talked with Cutts, telling him that many of his actions are inappropriate, and that he is interfering with her personal life. (N. T. 98, 239).
106. Sheridan reviewed her past career with Cutts, that now she had no duties, that she was not accomplishing anything, and that Cutts should compensate her for his behavior and just let her pursue another career. (N. T. 98-99).

107. Cutts told Sheridan that he would give her whatever she wants, he just wants her to be happy. (N. T. 100, 240)
108. Sheridan told Cutts she would get back to him in a few days after she had calmed down. (N. T. 100, R.E. 1, at 5, 62).
109. The next day, May 11, 2005, Cutts called Sheridan 8 times. (N. T. 100; R.E. 1, at 6).
110. On May 11, Cutts hand-delivered Sheridan's paycheck to her home. (N. T. 118).
111. On May 12, 2005, Sheridan e-mailed Cutts, and asked him to stop calling, telling him she was upset and as they agreed, she would get back to him in a few days. (N. T. 101; C.E. 2).
112. Cutts then called Sheridan two times on May 12, 2005. (R.E. 1 at R. E. 6, 48).
113. On May 13, 2005, Sheridan consulted an attorney, seeking a letter directed to Cutts that formally expressed just how offended Sheridan was about Cutts' continuing behavior, and to submit a proposed plan that Sheridan believed was consistent with terms they had discussed on May 10, 2005. (N. T. 102, 103, 254, 268; C.E. 3).
114. Sheridan also enclosed a personal note to Cutts in which Sheridan expressed how sorry she was that Cutts had developed unrequited feelings but that his repeatedly and inappropriate crossing of boundaries had detrimentally affected her professionally, emotionally, mentally and physically. (N. T. 104-105; C.E. 3).
115. When Cutts received the letter from her attorney he threw it away. (N. T. 402-403).