



## 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).