IN THE SUPREME COURT OF NEW ZEALAND

SC 39/2006
[2006] NZSC 61

BETWEEN	COMMERCE COMMISSION Appellant
AND	FONTERRA COOPERATIVE GROUP LIMITED Respondent

Court: Elias CJ, Blanchard and Anderson JJ

Counsel: D J Goddard QC and L Theron for Appellant
J A Farmer QC and A K Rawlings for Respondent

Judgment: 17 August 2006

JUDGMENT OF THE COURT

A. Leave to appeal is granted.

B. The approved ground of appeal, in terms of r 29, is:

> **Did Fonterra use a "cost of capital rate" within the meaning of regulation 9 in setting the price of a co-operative share on the basis of a weighted average cost of capital rate rather than a cost of equity capital rate?**

C. Any application for leave to cross appeal must be made formally.

Solicitors:
Commerce Commission, Wellington for Appellant
Minter Ellison Rudd Watts, Auckland for Respondent