



## Supreme Court of New Zealand

6 September 2006

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**Wynston Alexander Cecil Chirnside v Rattray Properties Limited &  
Richard Elmore Fay  
SC CIV 7/2004 [2006] NZSC 68**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

Mr Chirnside and Mr Fay entered into a joint venture to develop commercial premises in Dunedin. After the venture had progressed some distance, Mr Chirnside excluded Mr Fay from further participation, claiming he was entitled to do so. The High Court found that Mr Chirnside was in breach of his fiduciary duties to Mr Fay when he excluded him. That conclusion was upheld in the Court of Appeal and has also been upheld in the Supreme Court.

The Supreme Court has differed from the Court of Appeal's decision about how Mr Fay should be compensated for the breach. It has held that Mr Chirnside should disgorge the profit he made from Mr Fay's half share of the venture. The Court has, however, by a majority, given Mr Chirnside an allowance for his efforts in generating that profit. The Court has made further adjustments to the Court of Appeal's orders on subsidiary aspects of how the profit should be calculated.

The Supreme Court has ordered that judgment be entered for Mr Fay against Mr Chirside and his company, Rattray Properties Limited, for the sum produced by its revised calculations. That sum is \$850,000, an increase of \$355,000 over the sum awarded by the High Court.

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