



# In The Supreme Court of Bermuda

## CIVIL JURISDICTION

2025 No 299

### In the matter of the WB Trust

*Trustee's application for blessing under Public Trustee v Cooper (Category 2)*

*Date of hearing: 23 April 2026*

*Date of Reasons (circulated): 30 April 2026*

*Date of issue of Reasons: 21 May 2026*

### *Appearances*

*Keith Robinson of Carey Olsen Bermuda Limited for the Trustee*

*David Kessaram of Cox Hallett Wilkinson for the first and second defendants*

No appearance by the third and fourth defendants

### Reasons for Order

#### Introduction

1. The Trustee (“the Trustee”) of the WB Trust (“the Trust”) has applied to the court for a blessing of the Trustee’s decision to proceed to make certain further distributions of assets to the beneficiaries of the Trust. This application falls under the category 2 type of decision under the jurisdiction established in **Public Trustee- v- Cooper**<sup>1</sup>. The court made the order sought and promised to provide brief reasons for the court’s decision. These are those reasons.

#### Background

2. The Trustee has previously applied for the court's blessing of its decision not to proceed with further distributions for the time being which was considered and granted by the court for the reasons set out in **W Trust** [2025] SC (Bda) 55 Civ.
3. The court adopts the background described in the **W Trust** decision and will not repeat it again here. It will suffice to say that since the date of the court's earlier decision, the issues

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<sup>1</sup> [2001] WTLR 901.

then raised as concerns have been resolved in such a way that the Trustee now feels that it is appropriate to make further distributions to the beneficiaries based on updated tax and legal advice, and has decided to do so, subject to obtaining the court's blessing.

### **The Trustee's decision**

4. The Trustee has taken into account the tax and legal advice it has received which is to the effect that all distributions must be made to the four beneficiaries of the trust in equal amounts and at the same time to avoid any risk that they earlier tax settlement could be reopened. This advice has guided and informed the Trustee's decision to make the proposed distributions.
5. The requirements that the distribution must be equal as between the four beneficiaries and made at the same time mean that the Trustee is not yet able to distribute assets which are illiquid and/or of uncertain value. To attempt to distribute these assets might risk unequal treatment as between the beneficiaries. The Trustee has therefore decided not to distribute those assets for the time being.
6. However, there are a number of liquid assets to which it is possible to attribute a present value. These are set out and described in the Trustee's affidavit in support of the application. The Trustee is satisfied that the proposed distribution of these liquid assets (representing approximately half of the value of the assets remaining in the Trust) meets the requirements of a simultaneous and equal distribution of value as between the beneficiaries. The Trustee has concluded that it is appropriate to proceed to make the distributions because the Trustee has been advised that doing so in this way will not run any significant risk of reopening the beneficiaries' earlier tax settlements with the overseas tax authority.
7. The court was therefore satisfied on the evidence that the Trustee has approached the decision in the proper manner, has made a rational decision, and has taken into account all relevant factors (and has not taken into account any irrelevant factors) in reaching its decision to make the proposed distributions<sup>2</sup>.

### **The Blessing**

8. Applying the relevant test in **Public Trustee v Cooper** for category 2 type decisions, the court was also satisfied that the Trustee's decision to make the distributions set out in the affidavit in support of the application (i) is lawful and is within the Trustee's powers under the trust instrument (ii) reflects the Trustee's genuinely held view, which is a view that a reasonable trustee could properly take, and (iv) the decision is not tainted by any conflict of interest.
9. Accordingly, the court granted its blessing to the Trustee's decision to proceed to make the proposed distributions of assets in the amounts and proportions described in the affidavit in support of the application.
10. These distributions will be made when the Trustee considers it expedient and convenient to do so, allowing for prevailing market conditions and external factors which may affect the timing of the implementation of the distributions.

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<sup>2</sup> **Re P Trusts** [2023] SC (Bda) 31 Civ.

11. Finally, the court expressly confirms that it was appropriate for the Trustee to seek the court's blessing of the decision to proceed with the proposed distributions. This is because of the background history of the matter which is set out in full in the **W Trust** decision and which need not be repeated here. Against that background, it is obvious that the Trustee was entitled and justified in seeking the court's blessing of its decision to make the proposed distributions.

Dated 30 April 2026



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**THE HON. MR. JUSTICE ANDREW MARTIN**  
**PUISNE JUDGE OF THE SUPREME COURT**