

DOCKET NO. OP 11-00539

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND LINDLEY, JJ.

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IN THE MATTER OF DANIEL T. WARREN, PETITIONER,

V

ROBERT J. BIELECKI, COMPTROLLER, TOWN OF WEST SENECA AND  
WALLACE C. PIOTROWSKI, BUDGET OFFICER AND SUPERVISOR, TOWN  
OF WEST SENECA, RESPONDENTS.

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Respondent Wallace C. Piotrowski having moved by an order to show cause and an amended order to show cause signed by Honorable Eugene M. Fahey on August 25, 2011, and respondent Robert J. Bielecki having moved to reject or strike the referee's report pursuant to CPLR 4403, to seal the referee's report, to dismiss the petition, and other relief in this original proceeding,

Petitioner cross-moved for an order confirming in part and rejecting in part the referee's report, for summary judgment pursuant to CPLR § 411, and other relief,

Now, upon reading and filing the affirmation of Michael B. Powers, Esq., dated August 26, 2011, said show cause order with proof of service thereof, the affidavits of Paul M. Michalek, Jr., Esq., sworn to August 26, 2011, and September 6, 2011, the affidavit of Daniel T. Warren, sworn to August 31, 2011, the notices of motion and cross motion with proof of service thereof, and the affidavit of Timothy W. Hoover, Esq., sworn to September 2, 2011, and due deliberation having been had thereon,

**It is hereby ORDERED** that the motion insofar as it seeks to seal the report is granted, and

**It is further ORDERED** that neither the referee's report nor any of its contents shall be disclosed to any person pending the determination of this proceeding, and

**It is further ORDERED** that the remainder of respondents' motions and petitioner's cross motion is denied, with leave to renew in their briefs.

**Memorandum:** The referee's report is merely a recommendation to the Court, not a ruling by the Court. There has been no determination made in relation to the merits of the petition at this time, and this Court has not determined whether it is going to confirm the findings in the referee's report.

**Entered: September 9, 2011**

**PATRICIA L. MORGAN, Clerk**