

NEW YORK — NEW YORK COUNTY

Index Number : 405987/2001

**RELIANCE INSURANCE COMPANY**

VS.

**X**

SEQUENCE NUMBER : 046

CONFIRM/~~REJECT~~ REFEREE REPORT

PART 7

INDEX NO. 405987/01

MOTION DATE 11/4/09

MOTION SEQ. NO. 046

MOTION CAL. NO. 97

The following papers, numbered 1 to 3 were read on this motion to/for Confirmation

	PAPERS NUMBERED
Notice of Motion/ <del>Order to Show Cause</del> - Affidavits - Exhibits <sup>(+ <u>memos</u>)</sup> <sub>2nd release @ the 25-55</sub>	<u>1-2</u>
Answering Affidavits - Exhibits <sup>(+ <u>memos</u>)</sup>	<u>3</u>
Replying Affidavits <sup>(+ <u>reply memos</u>)</sup>	
<u>+ papers submitted on cross-motion (reg 045)</u>	
Cross-Motion: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <sup>(reg 96)</sup>	

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Upon the foregoing papers, it is ordered that this motion by respondent NY Liquidation Bureau to confirm the referee's report (Hon. Martha Evans, Referee, July 15, 2009) is granted; the referee's report is hereby confirmed; the Clerk shall enter judgment accordingly. The careful and lucid analysis of the Referee and his findings and conclusions are correct and are substantiated by the records. <sup>In particular</sup> the Referee correctly concluded that claimant O'Brien and Bese Technical Services, Inc. were not entitled to coverage under the policy; that it was a separate corporate entity than O'Brien and Bese Engineers, Inc.; and that claimant, as a separate entity, cannot claim coverage for services work done by O'Brien and Bese Engineers, Inc. The Report is confirmed in full.

**FILED**

NOV 27 2009

NEW YORK COUNTY CLERK'S OFFICE

MICHAEL D. STALLMAN

Dated: 11/24/09

*[Signature]*  
J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK

NEW YORK — NEW YORK COUNTY

Index Number : 405987/2001

**RELIANCE INSURANCE COMPANY**

VS.

**X**

SEQUENCE NUMBER : 045

~~CONFIRM~~/REJECT REFEREE REPORT

PART 7

**FILED**

NOV 27 2009

NEW YORK COUNTY CLERK'S OFFICE

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. \_\_\_\_\_

MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to 4 were read on this motion to/for reject referee report in part

	PAPERS NUMBERED
Notice of Motion/ <del>Order to Show Cause</del> <sup>(+mend)</sup> Affidavits — Exhibits <sup>(3rd class)</sup>	1-4
Answering Affidavits — Exhibits <sup>(+mend)</sup>	
Replying Affidavits <sup>(+mend)</sup>	
Cross-Motion: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <sup>(req 97)</sup>	

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Upon the foregoing papers, it is ordered that this motion by Claimant <sup>by Claimant O'Brien and Bere Engineering Services, Inc's motion to reject in part the referee's Report (Hon. Martin Ennis, 7/15/09)</sup> is denied. see short form order confirming the Report (req 97). Claimant's arguments lack merit. The Referee correctly determined the issues as submitted on the papers before him as a matter of law. There was no need to hold an evidentiary hearing. In particular, there is no merit to Claimant's position that its relationship with O'Brien and Bere Engineers, Inc., a separate corporate entity, and what it alleges to be its legal responsibility for the acts of the other entity (Engineers) operate to extend policy coverage for the work/act/omission of Engineers. Claimant's other arguments lack merit.

MICHAEL D. STALLMAN  
J.S.C.

Dated: 11/21/09 \_\_\_\_\_  J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE