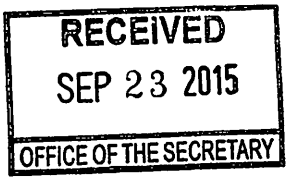
**BEFORE THE**
**SECURITIES AND EXCHANGE COMMISSION**
**WASHINGTON, DC**




September 22, 2015

Admin. Proc. File No. 3-16577

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In the Matter of the Application of

RAMCON FINANCIAL LLC

For Review of Action Taken by

FINRA

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**RAMCON'S MOTION TO ADDUCE EVIDENCE AND REPLY BRIEF IN SUPPORT OF APPLICATION FOR REVIEW**

## I. Motion of Ramcon Financial LLC for Leave to Adduce Additional Evidence

Ramcon Financial LLC ("Ramcon") respectfully submits this motion in the above-referenced proceeding pursuant to Rule of Practice 452, which states that a party may file a motion to adduce additional evidence "at any time prior to the issuance of a decision". Ramcon seeks leave to adduce evidence in the form of the sworn testimony provided by Mr. Tim Sullivan, Richard McCollam's former supervisor at SII, at an On-the-Record ("OTR") interview with FINRA, referenced in and attached as Exhibit A to Ramcon's August 7, 2015 Brief in Support of Application for Review.

**A. The Sullivan Testimony Is Material**

The Commission's Rule of Practice 452 permits new evidence to be adduced if it can be shown "with particularity that such additional evidence is material."[1] The Sullivan testimony meets that criteria in that it corroborates an unestablished fact, that the customer complaints and resulting arbitrations tarnishing Mr. McCollam's reputation, and serving as a primary evidentiary basis for Ramcon's denial of membership, exist due to the intervention of a third party. FINRA Staff, in their decision denying Ramcon's membership, repeatedly cited the complaints and arbitrations brought against Mr. McCollam for rationale that Ramcon had failed to meet various standards of NASD Rule 1014. The testimony of Mr. Sullivan is the first piece of direct evidence that supports the truth of the assertion that a third party communicated with Mr. McCollam's customers, instructed them to complain to FINRA, drafted a complaint template for them to file against Mr. McCollam, and then referred those customers to the law firm which commenced the majority of the litigation against Mr. McCollam. There is testimony from which it is plainly obvious, without any inference needed, that Mr. Sullivan did indeed draft the complaint template which all of the customers who complained against Mr. McCollam used, and further, that at the very least the lack of supervision claim put forth by those customers was not genuine, as Mr. Sullivan inserted that claim into the template himself without any knowledge of the specific circumstances of the client involved. For FINRA Staff to paint Mr. McCollam as a liability and threat to the investing public, but yet to believe that Mr. Sullivan, who admits in his testimony that he inherited Mr. McCollam's accounts as a result, sought nothing more than to repeatedly assist complete strangers out of the goodness of his heart, going so far as to draft documents for them, is bizarre. Moreover, Staff is well acquainted with the industry, and knows that it is far

[1] 17 C.F.R. § 201.452

from common practice for a licensed individual to be advising the clients of another licensed individual on how to complain about that licensed individual. Indeed, Mr. Sullivan quite literally drafted the form and substance of the initial complaints used by Mr. McCollam's customers. He then acquired various accounts from an overall book of business of approximately ninety million dollars. Mr. Sullivan's testimony should be admitted by the Commission and considered in accordance with their best judgment.

### B. The Sullivan Testimony is Newly Discovered Evidence

Rule of Practice 452 also requires that a motion to adduce additional evidence have "reasonable grounds for failure to adduce such evidence previously."[2] The testimony is newly discovered because it was given on April 7, 2015. At this time the arbitration hearing at which the testimony was elicited took place, Ramcon's appeal to the NAC had already occurred and was pending a decision by the NAC. The testimony did not exist at the time the record was established for Ramcon's appeal to the NAC. A clear distinction must be drawn between the kind of testimony that would be elicited by FINRA Staff at an OTR and the kind Ramcon would elicit by calling a potentially hostile witness to testify at a hearing before the NAC. The testimony was completely unknown to Ramcon until weeks after the NAC had issued its decision on May 4, 2015. Accordingly, the Sullivan Testimony and all reference to it in Ramcon's opening brief should be admitted by the Commission.

## II. ARGUMENT

In the decision issued May 4, 2015, the NAC held that Ramcon failed to offer sufficient evidence that the pending arbitrations should not be held against Ramcon and indeed found that

[2] 17 C.F.R. § 201.452

regarding the pending customer complaints and arbitrations, there was "no reason to discount the implications of these events with respect to the standard articulated in NASD Rule 1014(a)(3)."[3] The Sullivan Testimony is a strong reason to doubt the credibility and implications of those events. Staff may deem Ramcon's arguments "well worn" but Ramcon will continue to advance them in the hope that common sense will prevail, and the forest will not be missed for the trees. Mr. McCollam was a veteran of the industry for decades, with no material disclosure events or complaints of any kind. Over the years he amassed a multi-million dollar book of business built on long term relationships and loyalty to his customers. Broker dealers with any sort of gripe with an employee can, and often do, terminate that employee for cause. If every individual with a termination for cause were denied membership on that basis, the number of broker dealers today would drop precipitously. Mr. McCollam is not a threat to the investing public, and never has been. In the industry as a whole, a termination for cause for failing to follow internal firm policy is rarely a career ending event. Ramcon has repeatedly demonstrated in writing that it is capable of complying with the various standards of NASD Rule 1014 such that it could overcome a presumption of denial, and maintains that its previously advanced arguments hold true.

The customer complaints and resulting arbitrations brought subsequent to McCollam's termination were a necessary component in crafting the legal basis for Ramcon's denial, and evidence that undermines their credibility and the authenticity of their claims is understandably problematic for those seeking to deny Ramcon membership. If you cannot presume their total authenticity it is difficult to justify a conclusion that McCollam is incompetent or a threat to the investing public. Indeed, what emerges is a narrative that Ramcon has attempted to advance throughout the course of its appeals. One in which Mr. McCollam is terminated, and his marked

[3] *Id.* at 16.

record is mailed to his customers, inevitably sparking concern and outreach. When his customers reach out for guidance and clarification, they are guided by an individual to complain to FINRA, who then drafts a template for each of those customers to use and refers them to the law firm many of them would use to commence litigation against Mr. McCollam. That individual, Mr. Sullivan, inherits Mr. McCollam's accounts. The narrative has the ring of truth to those familiar with human nature and the industry as a whole, especially given the prevalence of those willing to capitalize on the vulnerability of others in the industry. Based on the foregoing evidence of improper influence and outright manipulation, Mr. McCollam urges the Commission to consider a reversal concerning the denial of Mr. McCollam's application.

Thank you for your time and attention to this matter. For additional information please contact the undersigned.

Sincerely,

Jonathan B. Weiss, Esq.
General Counsel
Luxor Financial Group
347-284-0110
Jonathan@luxorbd.com

September 22, 2015


**VIA MESSENGER**
Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington DC, 20549-1090

RE: In the Matter of the Application of Ramcon Financial, Inc.
**Administrative Proceeding No. 3-16577**

Dear Mr. Fields:

Enclosed please find the original and three copies of Ramcon's Motion to Adduce Evidence and Reply Brief in Support of Application for Review in the above captioned matter.

Please contact me at (347) 284-0110 if you have any questions.

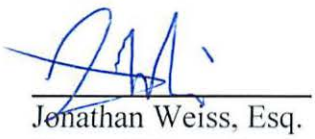
Best,

Jonathan Weiss, Esq.

## Certificate of Service Form

I, Jonathan Weiss, do hereby certify that on September 22, 2015, a true and correct copy of the attached Motion of Ramcon Financial LLC for Leave to Adduce Additional Evidence and Reply Brief, in the Matter of the Application of Ramcon Financial LLC, was mailed in paper format to the following individual/address:

Alan Lawhead
FINRA
Office of General Counsel
1735 K Street, NW
Washington DC, 20006



Jonathan Weiss, Esq.
General Counsel
Luxor Financial Group
Dated: September 22, 2015