

FIRST BANCORP /NC/  
Form S-8  
June 30, 2014

As filed with the Securities and Exchange Commission on June 30, 2014

Registration No. 333-

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

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**FORM S-8**

REGISTRATION STATEMENT UNDER THE  
SECURITIES ACT OF 1933

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**FIRST BANCORP**

(Exact Name of Registrant as Specified in its Charter)

North Carolina                      56-1421916  
(State or Other Jurisdiction of    (I.R.S. Employer  
Incorporation or Organization)    Identification No.)

300 SW Broad Street, Southern Pines, North Carolina 28387

(Address of Principal Executive Offices)

First Bancorp Employees' 401(k) Savings Plan

(Full Title of the Plan)

Richard H. Moore

President and Chief Executive Officer

First Bancorp

300 SW Broad Street

Southern Pines, North Carolina 28387

(Name and Address of Agent for Service)

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(910) 246-2500

(Telephone Number, Including Area Code, of Agent for Service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

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Copy to:

Henry H. Ralston

Robinson, Bradshaw & Hinson, P.A.

101 North Tryon Street, Suite 1900

Charlotte, North Carolina 28246

(704) 377-2536

**CALCULATION OF REGISTRATION FEE**

Title of Securities To Be Registered	Amount To Be Registered	Proposed Maximum Offering Price Per Share <sup>(2)</sup>	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, no par value per share	125,000 <sup>(1)</sup>	\$18.11	\$2,263,750 <sup>(2)</sup>	\$291.57 <sup>(2)</sup>

Pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement also relates to an indeterminate number of additional shares of common stock that may be necessary to adjust the number of shares issuable under the First Bancorp Employees' 401(k) Savings Plan (the "Plan") as a result of a stock

(1) split, stock dividend, recapitalization or similar adjustment of the outstanding common stock of the Registrant. Pursuant to Rule 416(c), this Registration Statement further covers an indeterminate amount of shares and interests to be offered and sold pursuant to the Plan.

(2) Estimated pursuant to Rule 457(c) and Rule 457(h) of the Securities Act solely for the purpose of calculating the registration fee, based on the average of the high and low prices of the Registrant's common stock on June 24, 2014 as reported on the NASDAQ Global Select Market.

PART I

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

Item 1. Plan Information.

Not filed as part of this Registration Statement pursuant to the Note to Part I of Form S-8.

Item 2. Registrant Information and Employee Plan Annual Information.

Not filed as part of this Registration Statement pursuant to the Note to Part I of Form S-8.

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PART II

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by the Company with the Commission are incorporated by reference into this Registration Statement:

- (a) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2013;
- (b) the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2014;
- (c) the Company's Current Reports on Form 8-K filed on February 27, 2014, March 14, 2014, May 13, 2014, May 28, 2014 and June 16, 2014; and
- (d) the description of the Company's common stock, no par value per share, contained in the Company's registration statement on Form 8-A as filed with the SEC on April 8, 1987, including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Company with the SEC pursuant to Section 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act") after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered by this Registration Statement have been sold or that deregisters all securities then remaining unsold shall be deemed incorporated by reference into this Registration Statement to be a part hereof from the date of the filing of such documents.

Any statement contained herein or in the documents incorporated, or deemed to be incorporated, by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that also is, or is deemed to be, incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts And Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 55-2-02 of the North Carolina Business Corporation Act (the "Business Corporation Act") enables a corporation in its articles of incorporation to eliminate or limit, with certain exceptions, the personal liability of a director for monetary damages for breach of duty as a director. No such provision is effective to eliminate or limit a director's liability for (i) acts or omissions that the director at the time of the breach knew or believed to be clearly in conflict with the best interests of the corporation, (ii) improper distributions as described in Section 55-8-33 of the Business Corporation Act, (iii) any transaction from which the director derived an improper personal benefit or (iv) acts or omissions occurring prior to the date the exculpatory provision became effective. The Company's articles of incorporation, as amended, limit the personal liability of its directors to the fullest extent permitted by the Business Corporation Act, as amended from time to time. Any repeal or modification of this provision by the Company's shareholders will not adversely affect any limitation on the personal liability of a director of the Company existing at the time of the repeal or modification.

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Sections 55-8-50 through 55-8-58 of the Business Corporation Act permit a corporation to indemnify its directors, officers, employees or agents under either or both a statutory or nonstatutory scheme of indemnification. Under the statutory scheme, a corporation may, with certain exceptions, indemnify a director of the corporation who was, is, or is threatened to be made, a party to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative, or investigative, because of the fact that such person was or is a director of the corporation, or is or was serving at the request of such corporation as a director of another corporation or enterprise. This indemnity may include the obligation to pay any judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred in connection with a proceeding (including counsel fees), but no such indemnification may be granted unless such director (i) conducted himself in good faith, (ii) reasonably believed (a) that any action taken in his official capacity with the corporation was in the best interests of the corporation or (b) that in all other cases his conduct was not opposed to the corporation's best interests, and (iii) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful. Whether a director has met the requisite standard of conduct for the type of indemnification set forth above is determined by a majority vote of a quorum of the board of directors (excluding any director party to the proceeding at question), a committee of directors, special legal counsel or the shareholders in accordance with Section 55-8-55 of the Business Corporation Act. Under the statutory scheme, a corporation may not indemnify a director in connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation or in connection with any other proceeding in which the director was adjudged liable on the basis of having received an improper personal benefit. Pursuant to Section 55-8-56 of the Business Corporation Act, a corporation may also indemnify officers, employees or agents under this statutory scheme.

Sections 55-8-52 and 55-8-56 of the Business Corporation Act require a corporation, unless its articles of incorporation provide otherwise, to indemnify a director or officer who has been wholly successful, on the merits or otherwise, in the defense of any proceeding to which such director or officer was, or was threatened to be, made a party because he is or was a director or officer of the corporation. Unless prohibited by the articles of incorporation, a director or officer also may make application and obtain court-ordered indemnification if the court determines that such director or officer is entitled to mandatory indemnification under Section 55-8-52 of the Business Corporation Act or is fairly and reasonably entitled to indemnification in view of all the relevant circumstances.

In addition to, and notwithstanding the conditions of and limitations on, the indemnification described above under the statutory scheme, Section 55-8-57 of the Business Corporation Act permits a corporation, in its articles of incorporation or bylaws, by contract or by resolution, to indemnify, or agree to indemnify, any of its directors, officers, employees or agents against liability and expenses (including counsel fees) in any proceeding (including proceedings brought by or on behalf of the corporation) arising out of their status as such or their activities in such capacities, except for any liabilities or expenses incurred on account of activities that were, at the time taken, known or believed by the person to be clearly in conflict with the best interests of the corporation.

In addition, Section 55-8-57 of the Business Corporation Act authorizes a corporation to purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee or agent of the corporation against certain liabilities incurred by such a person, whether or not the corporation is otherwise authorized by the Business Corporation Act to indemnify that person. The Company has purchased and maintains such insurance.

The Company's amended and restated bylaws provide that the Company shall indemnify, to the fullest extent permitted by law, any person who at any time serves or has served as a director, officer, employee or agent of the Company against reasonable expenses (including attorneys' fees) incurred or reasonable payments made in connection with any pending, threatened or completed civil, criminal, administrative or investigative action, suit or proceeding, whether or not brought by or on behalf of the Company, by reason of the fact that he is or was a director, officer, employee or agent of the Company or serves or served any other enterprise as a director, officer, employee or agent at the request of the Company. The rights of any director or officer include advancement of expenses from time to time to the fullest

extent permitted by law. The amended and restated bylaws provide that the right of indemnification is not exclusive of other rights to which such person may be entitled, and that the right inures to the legal representatives of such person. The Company also has separate indemnification agreements with various current and past directors and officers.

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Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

See the Exhibit Index.

Item 9. Undertakings.

(a) The Company hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) to reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment hereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

*provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Company pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The Company hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Company's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) The Company hereby undertakes that insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Southern Pines, State of North Carolina on this 27th day of June, 2014.

**FIRST BANCORP**

By: /s/ Richard H. Moore

Richard H. Moore

President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plan) have duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Southern Pines, State of North Carolina on this 27th day of June, 2014.

**FIRST BANCORP EMPLOYEES' 401(k)**

**SAVINGS PLAN**

By: /s/ Eric P. Credle

Eric P. Credle

Member of the First Bancorp Employees' 401(k)

Savings Plan Administrative Committee

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Richard H. Moore and Eric P. Credle his true and lawful attorney-in-fact and agent, each with full power of substitution and resubstitution, for him or her and in his name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement, and any registration statement relating to the offering covered by this Registration Statement and filed pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents or their substitute or substitutes may lawfully so or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<b><u>Signature</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
/s/ Richard H. Moore Richard H. Moore	President, Chief Executive Officer and Director ( <i>Principal Executive Officer</i> )	June 27, 2014
/s/ Eric P. Credle Eric P. Credle	Executive Vice President and Chief Financial Officer ( <i>Principal Financial and Accounting Officer</i> )	June 27, 2014
/s/ Daniel T. Blue, Jr. Daniel T. Blue, Jr.	Director	June 27, 2014
/s/ Jack D. Briggs Jack D. Briggs	Director	June 27, 2014
/s/ Mary Clara Capel Mary Clara Capel	Director	June 27, 2014
/s/ James C. Crawford, III James C. Crawford	Director	June 27, 2014
/s/ James G. Hudson, Jr. James G. Hudson, Jr.	Director	June 27, 2014
/s/ George R. Perkins, Jr. George R. Perkins, Jr.	Director	June 27, 2014
/s/ Thomas F. Phillips Thomas F. Phillips	Director	June 27, 2014

/s/ Frederick L. Taylor, II

Director

June 27, 2014

Frederick L. Taylor II

<b><u>Signature</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
/s/ Virginia C. Thomasson Virginia C. Thomasson	Director	June 27, 2014
/s/ Dennis A. Wicker Dennis A. Wicker	Director	June 27, 2014
/s/ John C. Willis John C. Willis	Director	June 27, 2014

**EXHIBIT INDEX**

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
4.1	Form of Common Stock Certificate filed as Exhibit 4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1999, is incorporated herein by reference The shares of common stock of the Company registered hereby to be offered and sold pursuant to the Plan will be purchased in open market transactions. Because none of such shares will be original issuance securities, no opinion of counsel regarding the legality of the securities being registered is required.
5.1	The Company hereby undertakes that it will submit or has submitted the Plan and any amendment thereto to the Internal Revenue Service ("IRS") in a timely manner and has made or will make all changes required by the IRS in order to qualify the Plan.
23.1*	Consent of Elliott Davis, PLLC
24.1*	Powers of Attorney (included in the signature pages to the Registration Statement)

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\*Filed herewith