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cc
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Subject ADR 558 Dismissed

On December 20, 2010, the Federal Election Commission ("FEC" or "Commission") received a sua sponte submission alleging possible violations of the Federal Election Campaign Act of 1971, as amended. The submission, P-MUR 513 was referred to the ADR Office for resolution on February 1, 2011, and designated as ADR 558.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and take no further action against the Respondents The East Carolina Bank and ECB Bancorp, Inc. In its memorandum to the Commission, dated February 8, 2011, this office stated in its recommendation to dismiss:

Summary and Analysis of Case: The OGC referred The East Carolina Bank and A. Dwight Utz, President & CEO (collectively Respondents) based on their *sua-sponte* submission noting an inadvertent violation of 2 U.S.C. 441b(b)(4)(D), 11 C.F.R. 114.8(c). The submission stated that they inadvertently provided simultaneous authorizations for solicitations of their restricted class by two trade association PACs in violation of the FECA. Specifically, they provided authorization to the Independent Community Bankers of America PAC for the years 2010 through 2014, while previous authorization had been given to the North Carolina Bankers' Association PAC for the years 2006 through 2010. Thus, there was an overlap of authorizations of one year. Respondents further assert that although neither PAC had directly contacted Respondents' restricted class to solicit contributions during the overlapping authorizations, Respondent Utz had made one contribution to the Independent Community Bankers of America PAC in the amount of \$100 in February 2010. In addition, the North Carolina Bankers' Association PAC received contributions in the amount of \$3,050 during the overlapping year, in reaction to Respondents' internal encouragement to those eligible to contribute. Respondents took corrective action, and terminated the authorization given to the Independent Community Bankers of America PAC as soon as the violation was noted.

Accordingly, the Commission closed its file in this matter on February 17, 2011, and a copy of the certification of the vote dismissing this matter is attached.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the sua sponte submission, correspondence exchanged between Respondents and the Commission, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

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ADR 558 Certification Dismissing P-MUR.pdf

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