

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Clarksburg**

In Re: **JACQUELINE R. SHAVER**

Debtor,

MARTIN P. SHEEHAN, Trustee of the
Bankruptcy Estate of Jacqueline R. Shaver,

Appellant,

v.

District Court Case No. 1:14-CV-125
Judge Bailey

WESTSTAR MORTGAGE, INC., a
Virginia Corporation, and **BANK OF
AMERICA, N.A.**,

Bankruptcy No. 10-813

Appellees.

ORDER AFFIRMING JUDGMENT OF THE BANKRUPTCY COURT

This case comes before this Court on an appeal from of the United States Bankruptcy Court for the Northern District of West Virginia of a Memorandum Opinion dated June 26, 2014 [Doc. 1-10], and an Order entered on June 26, 2014 [Doc. 1-11], granting Bank of America's Motion for Summary Judgment and dismissing plaintiff's complaint.

On or about October 31, 2008, Jacqueline Rhea Shaver signed a Note for a loan with WestStar Mortgage, Inc. ("WestStar") for \$154,150.00. Jacqueline Rhea Shaver also signed a Deed of Trust securing WestStar's loan with the property located at 12 Crestview Terrace on October 31, 2008. Thus, the loan closing occurred on October 31, 2008. Plaintiff alleges that WestStar did not provide a copy of "every signed document executed

by the borrower.”

On January 14, 2013, Martin P. Sheehan, Trustee of the Bankruptcy Estate of Jacqueline Rhea Shaver (“Trustee”), filed a Complaint alleging that WestStar did not provide Jacqueline Rhea Shaver with signed copies of documents executed by Jacqueline Rhea Shaver at the October 31, 2008, loan closing in violation of the West Virginia Mortgage Lender, Broker, and Servicer Act (“WVMLBSA”). West Virginia Code § 31-17-8(j)(6).

Bank of America, N.A. (“BANA”) filed a motion for summary judgment on the grounds that the statute of limitations barred Trustee’s Complaint. The Trustee filed a response along with a request to certify the question to the West Virginia Supreme Court of Appeals. The Bankruptcy Court judge found for BANA, granted summary judgment, and denied the certification request by the Trustee. The Trustee appealed to this Court.

The Bankruptcy Court found that the factual basis for the claim was virtually the same as was presented in *Fluharty v. Quicken Loans, Inc.*, 2013 WL 5963060 (N.D. W.Va. November 7, 2013), in which Hon. Frederick P. Stamp, Jr. found that the statute of limitations was either one or two years, that the date of injury was the date of closing, and that dismissal was appropriate where the action was brought some four years after the closing of the loan. This Court agrees. This Court also finds that there is no reason to parrot the excellent analysis made by Judge Stamp and Bankruptcy Judge Patrick Flatley.

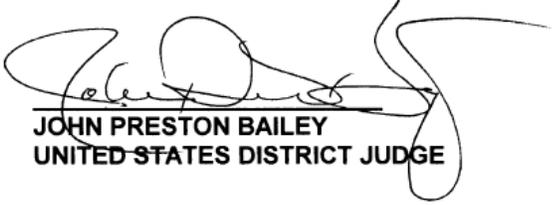
There is also no reason to certify the question to the West Virginia Supreme Court of Appeals.

Accordingly, the Order entered June 26, 2014 [Doc. 1-11], is **AFFIRMED** and this case is **DISMISSED** from the docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to the Clerk of the United States Bankruptcy Court for the Northern District of West Virginia.

DATED: October 24, 2014.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE