

SIGNED.

Dated: October 16, 2012



James M. Marlar

James M. Marlar, Chief Bankruptcy Judge

1
2
3
4
5
6
7 **UNITED STATES BANKRUPTCY COURT**
8 **DISTRICT OF ARIZONA**

9 In re:

10 DANIEL PATRICK POLAND and MISTY
11 DAWN POLAND,

12 Debtors.

Chapter 7

No. 4:12-bk-18417-JMM

MEMORANDUM DECISION

13 The Chapter 7 Debtors have asked the court to avoid judicial liens which they contend
14 have attached to certain personal property owned by them (ECF Nos. 19 and 20).

15 The Debtors filed for Chapter 7 relief on August 16, 2012. In their schedules, they
16 reflected ownership only of personal property (Schedule B), and no real property (Schedule A).
17 They now seek to "avoid" what they maintain are "judicial liens" against such personalty.

18 The affected creditors are:

- 19
- 20 • Capital One Bank, N.A.
 - 21 • Sterling, Inc. (aka Sterling Jewelers)
- 22

23 (ECF Nos. 19, 20.)

24 However, judicial liens (as a result of a recorded judgment) only attach to real property.
25 ARIZ. REV. STAT. §§ 33-961; 33-964. Recorded judgments have no legal effect on personalty
26 owned by a debtor.

27
28

1 Thus, neither of the recorded judgments has created judicial liens against the Debtors'
2 personal property. And, since the Debtors own no real property, the "avoiding" of those
3 judicial liens is unnecessary.

4 Thus, unless the Debtors have legal authority that a lien has been created, by operation
5 of Arizona law, upon their personal property (this court is not aware of any such statute), it
6 would appear that the motions are moot. This court cannot grant the relief sought, because no
7 wrong has been done to the Debtors which needs to be undone.

8 Accordingly, an order will be entered which denies each motion, as moot.

9
10 DATED AND SIGNED ABOVE.

11
12 To be NOTICED by the BNC ("Bankruptcy Noticing Center") to:

13 Debtors
14 Attorney for Debtors
15 Trustee
16 Office of the U.S. Trustee

17 Frederick J. Dias
18 Jerold Kaplan Law Office
19 2738 E Washington St
20 Phoenix, AZ 85034-0001
21 Attorneys for Capital One (USA), N.A.

22 Richard D. Fairbank, CEO
23 Capital One Bank (USA), N.A.
24 1680 Capital One Drive
25 McLean, VA 22102

26 CORPORATION SERVICE COMPANY
27 1100 E. Main Street, Ste. 1600
28 Richmond, VA 23218
Statutory Agent for Capital One (USA), N.A.

ATLAS ACQUISITIONS LLC
Attn: Avi Schild
294 Union St.
Hackensack, NJ 07601

1 Shannon Vandergaw
2 Gurstel Chargo PA
3 9320 East Raintree Drive
4 Scottsdale, AZ 85260
5 Attorneys for Sterling, Inc. aka Sterling Jewelers, Inc.

6 Mark Light, CEO
7 Sterling Jewelers, Inc.
8 375 Ghent Road
9 Akron, OH 44333

10 C T Corporation System
11 2394 E. Camelback Road
12 Phoenix, AZ 85016
13 Statutory Agent for Sterling Jewelers, Inc.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28