IN THE UNITED STATES BANKRUPTCY COURT
FOR THENORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 11
AEROSOL PACKAGING, LLC, A Georgia limited liability company, Debtor.	:	CASE NO.06-67096-mhm
BLUE RIDGE INVESTORS, II,LP, Movant, vs. WACHOVIABANK,N.A. and AEROSOL PACKAGING, LLC, Respondents.	:	CONTESTED MATTER

MOTION REQUESTING (1)DETERMINATION OF VOTING RIGHTS
AND ALLOWANCE OF BALLOT CAST BY
BLUE RIDGE INVESTORS, II,L.P. AND BRIEF IN SUPPORT THEREOF,
(2) VALUATION OF COLLATERAL, AND (3) HEARING

COMES NOW, Blue Ridge Investors, II,LP ("Blue Ridge"), a secured creditor and party in interest, by and through the undersigned counsel, and hereby files this "Motion Requesting Determination of Voting Rights and Allowance of Ballot Cast by Blue Ridge Investors, II, L.P. and Brief in Support Thereof, (2) Valuation of Collateral, and (3) Hearing" ("Motion"). In support of the Motion, Blue Ridge shows the Court as follows:

Issue

The issue before the Court is whether Wachovia Bank N.A. ("Wachovia"), per the terms of a pre-petition subordination agreement, is entitled under applicable bankruptcy law to vote the

claims held by Blue Ridge with respect to the proposed plan of reorganization supported by Harbert Private Equity Fund II, LLC ("Harbert").

Introduction

1. Aerosol Packaging, LLC, a Georgia limited liability company, d/b/a Aerosol Specialties ("Debtor"), filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division ("Court") on June 21, 2006 (the "Petition Date"). Debtor remains in possession of its assets and continues to manage its business in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

2. Blue Ridge is listed on Debtor's Schedule D as holding a valid, undisputed secured claim in the amount of $2,315,966.00. On September 14, 2006, Blue Ridge, not Wachovia Bank N.A. ("Wachovia") filed its proof of claim asserting a claim in the amount of $3,557,696.00 ("Blue Ridge Claim") comprised of a secured claim in the amount of $3,424,642.00 ("Blue Ridge Secured Claim") and a general unsecured claim in the amount of $133,954.00 ("Blue Ridge Unsecured Claim"). The Blue Ridge Claim is secured by a blanket lien on substantially all of the Debtor's assets.

3. Wachovia is listed on Debtor's Schedule D as holding a secured claim in the amount of $2,450,000.00. Wachovia filed a proof of claim asserting a secured claim in excess of $2,800,000.00 ("Wachovia Claim"), According, to the terms of the Agreement, the Blue Ridge Claim is apparently subordinate to the Wachovia Claim.

4. On August 9, 2006, the Court entered a final order (the "Priming Order") authorizing the use of cash collateral and providing adequate protection for secured creditors. The Court authorized the priming of liens asserted by Wachovia, Blue Ridge, and Badger in

favor of Harbert. The Priming Order authorized Harbert to provide up to $1,000,000.00 immediately in debtor-in-possession financing and up to an additional $1,000,000.00 in financing after fulfillment of certain conditions precedent.

Disclosure Statement and Plan of Reorganization

5. On August 2, 2006, Debtor filed its chapter 11 plan of reorganization ("Initial Plan"). No action occurred as a result of the filing of the Initial Plan because Debtor failed to file a disclosure statement in connection with the Initial Plan.

6. On September 29, 2006, approximately seven (7) weeks after the filing of the Initial Plan, Debtor filed its First Amended Plan of Reorganization ("Amended Plan") and its Disclosure Statement for Debtor's First Amended Plan of Reorganization ("Disclosure Statement").

7. On October 2, 2006, the Court entered an order and notice of assignment of hearing ("Disclosure Statement Notice") wherein, the Court scheduled a hearing to consider approval of the Disclosure Statement for November 8, 2006 ("Disclosure Statement Hearing"), and established October 30, 2006, as the deadline for filing written objections to the Disclosure Statement.

8. A number of creditors filed objections to the Disclosure Statement, including Blue Ridge.

9. At the Disclosure Statement Hearing, counsel for the Debtor requested a continuance of the hearing until November 13, 2006 (the "Continued Disclosure Statement Hearing").

10. On November 10, 11, and 13, 2006, Debtor circulated revised plans, disclosure statements, and an asset purchase agreement.

11. On November 13, 2006, Debtor filed the "Disclosure Statement for Debtor's Second Amended Plan of Reorganization" ("Amended Disclosure Statement") and "Debtor's Second Amended Plan of Reorganization ("Second Plan").

12. The Continued Disclosure Statement Hearing began on November 13, 2006, and was continued to November 17th and 20th and concluded on November 21, 2006.

13. On or about November 22, 2006, Debtor filed its final disclosure statement ("Final Disclosure Statement") and a revised second plan ("Current Plan").

14. On or about November 22, 2006, the Court entered an order approving the Final Disclosure Statement and established various deadlines with respect to confirmation including, without limitation, establishing December 13, 2006, as the deadline for casting ballots to accept or reject the Current Plan.

15. The Current Plan proposes a sale of the Debtor's ongoing operations and substantially all of the Debtor's assets to a wholly owned subsidiary of Harbert for cash and notes totaling approximately $4,850,000.00, plus assumption of the debtor in possession loan and/or conversion of said loan to equity.

Treatment of Secured Claims

16. Under the Current Plan, the Wachovia Claim is treated as follows:

> Class 2 – Allowed Claims of Wachovia
>
> Class 2 consists of (1) the Allowed Secured Claims held by Wachovia that are secured by Liens granted under the Wachovia Loan Documents, and (2) any other Allowed Unsecured Claim, if any, of Wachovia. As a condition to Wachovia lending money to Debtor, Blue Ridge executed the Blue Ridge Subordination Agreement in favor of Wachovia under which Blue Ridge agreed, among other things, to subordinate its Lien to the Liens of Wachovia and granted Wachovia certain rights including the right to (1) vote Blue Ridge's claim in any bankruptcy case, (2) receive amounts from Debtor for the benefit of Wachovia (until such time as Wachovia's Claim is paid in full), and (3) release any Lien Blue Ridge

holds against the Assets of Debtor if Wachovia is releasing its Lien against such Assets.

Within five (5) Business Days of the Effective Date, Wachovia shall receive (i) $2,000,000 in cash in good funds (the "Wachovia Payment") from the Plan Fund, and (ii) a general release from the Debtor and its Estate of any and all claims that the Debtor or its Estate may have against Wachovia as of the Effective Date (the "Wachovia Release"). Wachovia's Liens under the Wachovia Loan Documents shall attach to the Cash Payment and the funds in the Plan Fund to the extent of the Wachovia Payment, and will be automatically released upon the receipt by Wachovia of the Wachovia Payment. Wachovia shall not receive any other recovery on the Wachovia Claim from the Debtor or its Estate, nor shall any portion of the Wachovia Claim be included in any other class.

17. If Wachovia rejects the treatment as proposed under Class 2, the alternative treatment under the Current Plan is as follows:

Alternative Treatment of the Wachovia Allowed Claims

In the event that Wachovia does not vote to accept the Plan (as determined by the ballot recognized by the Court at the Confirmation Hearing), and consequently the treatment proposed to it in Section C.2 for its Allowed Claims, Wachovia shall receive a promissory note executed by Buyer, payable in 28 equal quarterly payment of principal and interest, commencing three months after the Closing and continuing on each three month anniversary date thereof, for the amount of its Allowed Secured Claim as determined by the Bankruptcy Court in full and final satisfaction of Wachovia's Allowed Secured Claim. Interest shall accrue on the note at the rate of 9% per annum. A form of the note is attached as Exhibit "C" to the Plan. Wachovia may assert any Super-Priority Administrative Claim that it may have in the Case, if any. Any remaining Allowed Unsecured Claim of Wachovia shall be included as an Allowed Claim in Class 5 and subject to the treatment provided for in Section c.7. Wachovia's rights in the Blue Ridge Subordination Agreement shall be unaffected by the Plan, and shall be enforceable tot eh extent enforceable under applicable law.

Wachovia will be entitled to a Lien on the Assets of Buyer to secure the secured promissory note to be provide [sic] to Wachovia, if any, assumed by Buyer which Lien shall maintain the same order of priority as it had as of the Petition Date with respect to any other Creditor holding an Allowed Secured Claim against Debtor who has its Allowed Secured Claim assumed by Buyer pursuant to the Plan.

18. Under the Current Plan, the Blue Ridge Claim is classified as a Class 3 Claim and is treated as follows:

> Allowed Claims of Blue Ridge
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> Class 3A consists of (1) the Allowed Secured Claims held by Blue Ridge that are secured by Liens granted under the Blue Ridge Loan Documents, and (2); any other Allowed Unsecured Claim, if any, of Blue Ridge.
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> At the Closing, Buyer shall deliver to Blue Ridge (or to Wachovia if Wachovia exercises its rights under the Blue Ridge Subordination Agreement) a Contingent Promissory Note for the principal amount equal to the product of (a) $400,000 multiplied by (b) the fraction equal to (i) the amount of the Allowed Claim in Class 3A divided by (ii) the sum of the Allowed Claims in Class 3A and Class 3B; which note shall be payable at 25% of the Free Cash Flow of Debtor's business acquired by Buyer (pro-rata with the Holders of other Contingent Promissory Notes if such Fee Cash Flow is insufficient to pay the claims of all Contingent Promissory Notes in full), for each calendar year, in full and final satisfaction of any Allowed Claim in Class 3A of which it is the Holder. A copy of the proposed Contingent Promissory Note under which the Allowed Claim in Class 3A shall be paid is attached as Exhibit "A" to the Plan.
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> If Blue Ridge voted to accept the Plan (as determined by ballot recognized by the Bankruptcy Court at the Confirmation Hearing), Blue Ridge shall receive at Closing a general release from the Debtor and its Estate of any and all claims that the Debtor or its Estate may have or claim to have against Blue Ridge as of the Effective Date, provided that the foregoing release shall not be provided by Debtor to Blue Ridge at the direction of the Bankruptcy Court or any other Court.
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> In addition, as a condition to receiving the treatment provided for hereunder at Closing, Debtor shall receive from Blue Ridge, or Wachovia on behalf of Blue Ridge, (A) a release of any and all security interests Blue Ridge may possess under the Blue Ridge Loan Documents against any of the Assets, (B) a release of the Blue Ridge Guaranties, (C) a reassignment of the Fragnoli Insurance Policy to Debtor, and (D) a waiver and general release of any claims Blue Ridge may have under the Blue Ridge Guaranties. Any recovery by Blue Ridge shall be subject to the provisions of the Blue Ridge Subordination Agreement to the extent enforceable under applicable law.
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> If Blue Ridge does not vote to accept the Plan, and consequently the treatment provided for it in this Section C.3 hereinabove, the Debtor will propose that Blue Ridge receive the alternative treatment set forth in

Section D.3 of Article VII of this Disclosure Statement for the Blue Ridge Claim.

19. If Blue Ridge rejects the Class 3A treatment, the alternative treatment under the Current Plan is as follows:

> Alternative Treatment for Blue Ridge Allowed Claims
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> In the event that Blue Ridge does not vote to accept the Plan (as determined by the ballot reorganized by the Court at the Confirmation Hearing), and consequently the treatment provided for it under the Plan as set forth in Section C.3 for its Allowed Claims, Blue Ridge shall receive a promissory note, executed by Debtor that will be assumed by the Buyer, payable in 28 equal quarterly payments of principal and interest, commencing three months after the Closing and continuing on each three month anniversary date thereof, for the amount of its Allowed Secured Claim as determined by the Bankruptcy Court in full and final satisfaction of Blue Ridge's Allowed Secured Claim. Interest shall accrue on the note at the rate of 9% per annum. A form of the note is attached as Exhibit "C" to the Plan. Blue Ridge may assert and Super-Priority Administrative Claim that it may have in the Case, if any. Any remaining Allowed Unsecured Claim of Blue Ridge shall be included as an Allowed Claim in Class 5 and subject to the treatment provided for in Section C.7.
>
> Blue Ridge will be entitled to a Lien on the Assets of Buyer to secure the secured promissory note to be provided Blue Ridge, if any, assumed by Buyer which Lien shall maintain the same order of priority as it had as of the Petition Date with respect to any other Creditor holding an Allowed Secured Claim against Debtor who has its Allowed Secured Claim assumed by Buyer pursuant to the Plan. However, any treatment for Blue Ridge shall be subject to the rights of Wachovia under the Blue Ridge Subordination Agreement.

Subordination Agreement

20. On or about December 5, 2002, the Debtor, Wachovia, and Blue Ridge entered into a document entitled "Subordination Agreement" (as subsequently modified the

"Agreement")[1]. A copy of the Agreement is attached hereto and incorporated herein by reference as Exhibit "A."

21. On or about November 27, 2006, Blue Ridge received a letter from counsel for Wachovia ("Wachovia Letter") dated November 22, 2006, wherein Wachovia directed Blue Ridge to, on or before December 1, 2006, (a) vote unconditionally in favor of the Final Plan; (b) execute a pleading ready for filing with the Court indicating that Blue Ridge has no objection to the Final Plan, and (c) prepare for filing and deliver to the Debtor UCC-1 termination statements. A true and correct copy of the Wachovia Letter is attached hereto and incorporated herein by reference as Exhibit "B".

22. Prior to the issuance of the Wachovia Letter, Blue Ridge filed its claim and filed an objection to the disclosure statement. Wachovia was well aware of the fact that Blue Ridge objected to the Harbert backed plan of reorganization. Blue Ridge's objection to the Disclosure Statement included an objection seeking to deny approval of the disclosure statement based upon a fatally flawed and non-confirmable plan. After plan revisions which resulted in an increase of the proposed payout to Wachovia, Wachovia now seeks to prevent Blue Ridge from participating in the reorganization process.

23. With respect to bankruptcy, Section 4(a) and (b) of the Agreement provide, in pertinent part, as follows:

> SECTION 4. *In furtherance of Subordination.* [Blue Ridge] agrees as follows:
>
> (a) Upon any distribution of all or any of the assets of the [Debtor] to creditors of the [Debtor] upon the dissolution, winding up, liquidation, arrangement or reorganization of the [Debtor], whether in bankruptcy,

[1] Blue Ridge specifically reserves the right to challenge the enforceability of the Agreement. Nothing herein is intended to nor should it be construed as a waiver by Blue Ridge to challenge the validity or enforceability of the Agreement or any individual provisions thereof.

insolvency, arrangement, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the [Debtor] or otherwise, any payment or distribution of any kind (whether in cash, property or securities) which otherwise would be payable or delivered directly to [Wachovia] for application (in the case of cash) to or as collateral (in the case of non-cash property or securities) for the payment or prepayment of the Obligations until the Obligations shall have been paid in full.

(b) If any proceeding of the type referred to in subsection (a) above is commenced by or against the [Debtor],

(i) [South Trust Bank] is hereby irrevocably authorized and empowered (in its own name or in the name of [Blue Ridge] or otherwise, but shall have no obligation, to demand, sue for, collect and receive every payment or distribution referred to in subsection (a) above and give acquaintance therefore and to file claims and proofs of claim and take such other action (including without limitation voting the Subordinated Debt) as it may deem necessary of advisable for the exercise or enforcement of any of the rights or interests of [South Trust Bank] hereunder;....

Applicable Statutes and Rules

24. Sections 510(a) and 1126(a) of the Bankruptcy Code, as well as, Rule 3018(c) of the Federal Rules of Bankruptcy Procedure govern the resolution of the issue set forth hereinabove.

25. Section 510(a) of the Bankruptcy Code addresses the issue of enforceability of subordination agreement and provides as follows:

> A subordination agreement is enforceable in a case under this title to the same extent that such agreement is enforceable under applicable nonbankruptcy law.
> 11 U.S.C. §510(a)

26. Section 1126(a) of the Bankruptcy Code sets forth the parties that are entitled to vote to accept or reject a plan and provides that "[t]he holder of a claim or interest allowed under section 502 of this title may accept or reject a plan...." 11 U.S.C. §1126(a).

27. Rule 3108(c) of the Federal Rules of Bankruptcy Procedure ("Rule(s)") provides as follows:

> An acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or an authorized agent, and conform to the appropriate Official forms. Fed.R.Bankr.P.3018(c).

Blue Ridge as the Holder of the Blue Ridge Claim is Entitled to Cast a Ballot Accepting or Rejecting the Current Plan

28. The Agreement, to the extent Wachovia seeks to enforce any provision purportedly granting Wachovia the right to vote Blue Ridge's Claim under the Current Plan, is unenforceable and violates Sections 510(a) and 1126(a) of the Bankruptcy Code and Rule 3018(c). Blue Ridge, as the holder of the Blue Ridge Claim, retains the right to vote to either accept or reject the Current Plan.

29. When a junior creditor opposes the prepetition contractual right of a senior creditor to vote the claims of junior creditor, courts have concluded that such contractual obligations are unenforceable and the junior creditor retains the right to vote its claim in a chapter 11 case. *Bank of America, N.A., vs. North LaSalle Limited P'ship. (In re 203 North LaSalle Street P'ship.)*, 246 B.R. 325 (Bankr. N.D. Ill. 2000); *but see In re Curtis Center Ltd. P.Ship.* 192 B.R. 648 (Bankr. N.D. Ill. 2000) (court allowed senior creditor to vote the claim of a junior creditor in accordance with the terms of a prepetition subordination agreement when no one opposed or raised any arguments challenging the voting provision under the subordination agreement).

30. The language of a subordination agreement governs repayment of claims between the parties; however, the Bankruptcy Code governs a creditor's ability to vote to accept or reject a plan of reorganization. *In re 203 North LaSalle Street P'ship.* 246 B.R. at 330-331. The issue

of whether a senior creditor is entitled to vote the claims or subordinated creditors was addressed in the of case of *In re 203 North LaSalle Street P'ship.*, 246 B.R. at 325 (Bankr. N.D. Ill. 2000). There, the court found that pre-bankruptcy agreements cannot serve as a basis for disregarding and/or failing to comply with the Bankruptcy Code. *Id.*

31. 203 North LaSalle Street Partnership, ("LaSalle"), the debtor, owned fifteen floors of a commercial office building located in downtown Chicago. *203 North LaSalle Street P'ship.* 246 B.R. at 326. LaSalle's two major secured creditors included Bank of America, N.A. ("Bank of America") and LaSalle's general partner, North LaSalle Street Limited Partnership ("North LaSalle"). *Id.* In 1987, LaSalle obtained a mortgage from Bank of America. *Id.* In 1988, LaSalle obtained a second mortgage from North LaSalle. *Id.* North LaSalle also entered into an inter-creditor agreement with Bank of America acknowledging the superiority of the mortgage held by Bank of America. *Id.*

32. In October of 1992, North LaSalle entered into a "Consent and Subordination Agreement" which contained a broad subordination provision and included language authorizing Bank of America to vote North LaSalle's claim in any bankruptcy proceeding. *Id.* The "Consent and Subordination Agreement" provided as follows:

> [North LaSalle] further agrees that in the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar proceeding relating...to the [debtor] or its creditors,...whether in bankruptcy, insolvency or receivership...the liabilities of the Trust or the [debtor] under the Bank's Loan Papers (the "Senior Liabilities")...shall first be paid in full before [North LaSalle] shall be entitled to receive and to retain any payment or distribution in respect of the liabilities of the Trust or [the debtor] under the Second Mortgage Loan Papers the ("Junior Liabilities") and, in order to implement the foregoing, (a) all payments and distributions of any kind or character in respect of the Junior Liabilities to which [North LaSalle] would be entitled if the Junior Liabilities were not subordinated...shall be made directly to the Bank...and (c) [North LaSalle] hereby irrevocably agrees that the Bank may, at its sole discretion, in the name of [North LaSalle] or otherwise, demand, sue for

> collect, receive and receipt for any and all such payments or distributions and file, prove, and vote or consent in any such proceedings with respect to, any and all claims of [North LaSalle] relating to the Junior Liabilities. *Id.*

33. With respect to the right of North LaSalle, the junior creditor, to vote its subordinated claim the court held that "North LaSalle, as holder of the claim arising under its loan to the debtor, is entitled to vote that claim in [LaSalle's] chapter 11 case." *203 North LaSalle Street P'ship.* 246 B.R. at 330. In its decision, the court articulated its rationale for the decision, and specifically set forth four justifications for its decisions which are set forth below:

> *The right to vote a subordinated claim.* While the language of the subordination agreements governs the outcome of the Bank's right to repayment of any deficiency claim, the language of the Bankruptcy Code governs the determination of voting rights in this case. Section 1126(a) of the Code provides that "the holder of a claim" may vote to accept or reject a plan under chapter 11 and the parties acknowledge that North LaSalle is the holder of the claim arising under its loan. Unless there is some basis for deviating from the plan language of §1126(a), North LaSalle should therefore be allowed to vote its claim in the confirmation process. *See United States v. Ron Pair enterprises, Inc.,* 489 U.S.235, 241, 109 S.Ct. 1026, 1030, 103 L.Ed. 2d 290 ('The plain meaning of legislation should be conclusive, except in rare cases [in which] the literal application of a statute will produce a result demonstrable at odds with the intentions of the drafters.")(citations omitted). None of the arguments given by the Bank justifies any deviations from the plain language of § 1126(a).
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> First, the fact that North LaSalle agreed that the Bank could vote its claim as part of a subordination agreement does not provide a basis for disregarding § 1126(a). It is generally understood that prebankruptcy agreements do not override contrary provisions of the Bankruptcy Code. Thus, in *Klingman v.Levinson*, 831 F.2d 1292, 1296 n.3 (7th Cir. 1987), the court noted that the Bankruptcy Code generally provides for the discharge of an individual's debts ,and that it would be contrary to public policy to allow a debtor to contract away the right to a discharge....Indeed since bankruptcy is designed to produce a system of reorganization and distribution different from what would obtain under nonbankruptcy law, it would defeat the purpose of the Code to allow parties to provide by contract that the provisions of the Code should not apply.
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> Second§ 510(a) in directing enforcement of subordination agreements, does not allow for waiver of voting rights under §

1126(a)."Subordination," though not defined by the Code, has a common understanding in the law, reflected in Black's Law Dictionary, which defined subordination as: :The act or process by which a person's rights of claims are ranked below those of others." (citations omitted). Subordination thus affects the order of priority of payment of claims in bankruptcy, but not the transfer of voting rights. One of the decisions cited by North LaSalle, *Beatrice Foods Cove. Hart Ski Mfg., Co, (In re Hart Ski Mfg .Co.),* 5 B.R.734, 736 (Bankr. D.Minn. 1980), made this point emphatically in the course of deciding that a subordinated creditor was entitled to adequate protection of its claim:

The intent of § 510(a)...is to allow consensual and contractual priority of payment to be maintained between creditors among themselves in a bankruptcy proceedings. There is no indication that Congress intended to allow creditors to altar, by a subordination agreement, the bankruptcy laws unrelated to distribution of assets.

Hart Ski went on to address the very issue involved here, stating in dicta that the Code "guarantees each secured creditor certain rights, regardless of subordination...including the right...to participate in the voting for confirmation or rejection of any plan of reorganization."

Third, Fed.R.Bankr.P.3018(c) does not allow the voting of subordinated creditor's claim by the senior creditor. The rule provides that an acceptance or rejection of a Chapter 11 plan must be signed by "the creditor or equity security holder or an authorized agent." Of course, a bankruptcy rule may not be enforced so as to contradict provisions of the Code. *U.S. v. Cardinal Mine Supply, Inc.,* 916 F.2d 1087, 1089 (6th Cir. 1990). However, there is no conflict here. An "agent" is commonly understood to act at the direction of a principal. Indeed, in *Brunswick Leasing Corp. v.Wisconsin Central Ltd.,* 136 F.3d 521, 526 (7th Cir. 1998), the court stated that "the test of agency is the existence of the right to control the method or manner of accomplishing a task by the alleged agent" (quoting *Wargel v. First Nat'l Bank of Harrisburg,*121 Ill.App.3d 730 736, 460 N.E. 2d 331, 334, 77 Ill. Dec. 275 (1984)). The Bank in this case would not be acting at the direction of North LaSalle in voting its claim; it would be acting in its own interests, quite possibly contrary to those of North LaSalle. Accordingly, the Bank cannot be seen as the agent of North LaSalle under Rule 3018.

Finally, far from producing any results at odds with the intent of Congress, the plain language of § 1126(a) is completely consistent with reasonable bankruptcy policy. Although a creditor's claim is subordinated, it may very well have a substantial interest in the manner in which its claim is treated. Subordination affects only the priority of payment, not the right to payment. If the assets in a given estate are sufficient, a subordinated claim

> certainly has the potential for receiving a distribution, and Congress may well have determined to protect that potential by allowing the subordinated claim to be voted. This result assures that the holder of a subordinated claim has a potential role in the negotiation and confirmation of a plan, a role that would be eliminated by enforcing contractual transfers of Chapter 11 voting rights.
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> *203 North LaSalle Street P'ship.* 246 B.R. at 330-331.

34. In sum, a prepetition contractual agreement cannot effectuate a transfer and/or waiver of rights afforded under the Bankruptcy Code. *In re 203 North LaSalle Street P'ship.*, 246 B.R. at 330-331. The Agreement, to the extent that is seeks to effectuate a transfer of voting rights from Blue Ridge to Wachovia, violates Section 1126 of the Bankruptcy Code and Rule 3018. Wachovia and the Debtor cannot rely upon and/or seek to enforce terms of the Agreement with respect to the discretionary purported right of Wachovia to Blue Ridge's Claim when such action violates the Bankruptcy Code.

35. Blue Ridge is the holder of the Blue Ridge Claim. Blue Ridge should and must be afforded an opportunity to preserve and protect its rights against Wachovia, the Debtor, and third parties. Blue Ridge should be allowed to fully participate in the plan process including, without limitation, voting its claim.

36. The ability of Blue Ridge to play a role in the reorganization process is amplified by the treatment of Blue Ridge's Claim which Wachovia and the Debtor seek to force Blue Ridge to accept. Specifically, the treatment of Blue Ridge's Claim under the Current Plan provides for the setting aside of liens, release of non-debtor entities, and allowance of a general unsecured claim of approximately $240,000.00 payable by the Buyer[2] from Free Cash Flow. If Blue Ridge votes to reject the Cuurent Plan, then Blue Ridge is entitled to a valuation hearing,

[2] Capitalized terms not otherwise defined herein shall have the meanings set forth in the Final Plan.

continuation of its liens to the extent of any allowed secured claim, and preserves its rights against non-debtor entities as provided for under the alternative treatment provisions. Thus, the only way for Blue Ridge to receive proper treatment and determination of the Blue Ridge Secured Claim is to reject the Current Plan and pursue the alternative treatment provided under the Current Plan. Blue Ridge contends that the treatment, as proposed for Class 3A, violates the treatment required for secured claims under the Bankruptcy Code.

37. Neither Wachovia nor the Debtor has any interest in preserving or protecting Blue Ridge's interests. The bankruptcy and non-bankruptcy rights which the Debtor proposes to waive and/or impair certainly affect Blue Ridge and Blue Ridge has a substantial interest to protect such rights, including, without limitation, seeking a determination as to its secured claim under Section 506 of the Bankruptcy Code and preserving its rights, claims, defenses, and causes of action against non-debtor entities.

38. Moreover, given that the Current Plan proposes a sale of substantially all of the Debtor's assets for cash and notes totaling approximately $4,450,000.00 (exclusive of the debtor in possession loan which will be satisfied either by assumption of the loan or conversion to equity) it appears that there are sufficient funds to satisfy the claim of Wachovia and all or a substantial portion of Blue Ridge's Secured Claim. When collateral is sold, the value of the collateral should be based upon the purchase price received in connection with the sale, assuming the terms and conditions of sale are fair and were arrived at through arms-length negotiations. *Ford Motor Credit Co. v. Dobbins,* 35 F.3d 860, 870 (4th Cir. 1994); *Romley v. Sun Nat'l Bank (In re Two "S" Corp.)* 875 F.2d 240, 244 (9th Cir. 1989). The valuation of collateral under the Current Plan does not appear to be based upon the purchase price received for the collateral. As of the filing of this Motion, Debtor has not filed exhibits to the Asset Purchase

Agreement, therefore, the allocation of the purchase price is unknown to creditors. Accordingly, Blue Ridge requests a determination as to the value of its collateral. Blue Ridge contends that the value of the collateral is represented by the purchase price paid by the Buyer.

39. The Agreement to the extent it seeks to transfer Blue Ridge's right to vote its claim and participate in the reorganization process is unenforceable. Blue Ridge is entitled to vote its claim and requests allowance of its vote and determination that the ballot cast by Blue Ridge is valid.

40. Lastly, Wachovia's contention that any action taken by Blue Ridge, including, without limitation, objecting to the Current Plan violate the Agreement which may give rise to claims against Blue Ridge is without merit. If the Current Plan complies with the Bankruptcy Code, neither the Debtor, Harbert, nor Wachovia should have any issues regarding confirmation.

41. Blue Ridge requests that the Court schedule a hearing on the Motion to occur on December 20, 2006 and resolve such issues prior to the confirmation hearing.

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WHEREFORE, Blue Ridge requests entry of an order (a) determining that the Agreement is unenforceable to the extent that it seeks to effectuate a transfer of Blue Ridge's right to vote its claim and participate in the plan process, (b) allowing the ballot cast by Blue Ridge, (c) determining the value of Blue Ridge's collateral, and (d) granting such other and further relief as is deemed just and proper.

Respectfully submitted this 1st day of December, 2006.

JONES & WALDEN, LLC

/s/ M. Denise Dotson

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EXHIBIT "A" FOLLOWS

SUBORDINATION AGREEMENT

SUBORDINATION AGREEMENT, dated as of Dec. 5, 2002, made by BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP, a Delaware limited partnership (the "Subordinated Creditor"), and AEROSOL PACKAGING, LLC, a Georgia limited liability company (the "Borrower"), in favor of SOUTHTRUST BANK, with an office at 333 North Greene Street, Greensboro, North Carolina 27401 (the "Lender").

PRELIMINARY STATEMENTS:

(1) The Lender has entered into two Business Loan Agreements, both dated Dec. 5, 2002, one relating to a $2,000,000 line of credit and the other to a $500,000 loan, with the Borrower (said Agreements, as they may hereafter be amended or otherwise modified from time to time, being collectively referred to as the "Loan Agreements"; the terms defined therein and not otherwise defined herein being used herein as therein defined).

(2) The Borrower is now indebted to the Subordinated Creditor in the aggregate principal amount of $1,850,000.00 pursuant to that certain Loan and Purchase Agreement, dated as of June 30, 2000, among the Subordinated Creditor, the Borrower and Leigh A. Fragnoli (the "Loan and Purchase Agreement"), and may hereafter from time to time become indebted or otherwise obligated to the Subordinated Creditor in further amounts. All such indebtedness now or hereafter existing (whether created directly or acquired by assignment or otherwise), and interest and premiums, if any, thereon and other amounts payable in respect thereof, are hereinafter referred to as the "Subordinated Debt", which Subordinated Debt shall include, without limitation, any amounts now owed or hereafter owing by Borrower to Subordinated Creditor under and pursuant to the provisions of Section C.5 of the Loan and Purchase Agreement.

(3) It is a condition precedent to the making or advances by the Lender under the Loan Agreements that the Subordinated Creditor shall have executed and delivered this Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to make advances under the Loan Agreements, the Subordinated Creditor and the Borrower each hereby agree as follows:

SECTION 1. *Agreement to Subordinate.* The Subordinated Creditor and the Borrower each agree that the Subordinated Debt is and shall be subordinate, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all obligations of the Borrower now or hereafter existing (whether created directly or acquired by assignment or otherwise) (including, without limitation, all obligations of the Borrower to the Lender under the Loan Agreements, whether for principal or interest and all other amounts payable in respect thereof) to Lender, up to a maximum amount of $3,500,000.00 (all of such obligations being the "Obligations"). For the purposes of this Agreement, the Obligations shall not be deemed to have been paid in full until the holders or owners of the Obligations shall have received payment in full of the Obligations in cash or cash equivalent.

SECTION 2. *No Payment on the Subordinated Debt.* The Subordinated Creditor agrees not to ask, demand, sue for, take or receive from the Borrower, directly or indirectly, in cash or other property or by set-off or in any other manner (including without limitation from or by way of collateral), payment of all or any of the Subordinated Debt which may now or hereafter be owing by the Borrower, or any successor or assign of the Borrower (including, without limitation a receiver, trustee or debtor-in-possession) (the term "Borrower" shall hereinafter include any such successor or assign of Borrower) unless and until the Obligations shall have been paid in full; provided, however, that unless and until Lender gives Subordinated Creditor notice of the occurrence of an event of default under the Loan Agreements, the Subordinated Creditor may receive regularly scheduled payments of interest only on the Subordinated Debt.

SECTION 3. *Subordination of Liens.* All liens and security interests of the Subordinated Creditor, whether now or hereafter arising and howsoever existing, in any assets of the Borrower or in any other assets securing the Obligations shall be and hereby are subordinated to the rights and interests of the Lender in those assets; the Subordinated Creditor shall have no right to possession of any such assets or to foreclose upon any such assets, whether by judicial action or otherwise, unless and until all of the Obligations shall have been paid in full.

SECTION 4. *In Furtherance of Subordination.* The Subordinated Creditor agrees as follows:

(a) Upon any distribution of all or any of the assets of the Borrower to creditors of the Borrower upon the dissolution, winding up, liquidation, arrangement or reorganization of the Borrower, whether in bankruptcy, insolvency, arrangement, reorganization or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Borrower or otherwise, any payment or distribution of any kind (whether in cash, property or securities) which otherwise would be payable or deliverable upon or with respect to the Subordinated Debt shall be paid or delivered directly to the Lender for application (in the case of cash) to or as collateral (in the case of non-cash property or securities) for the payment or prepayment of the Obligations until the Obligations shall have been paid in full.

(b) If any proceeding of the type referred to in subsection (a) above is commenced by or against the Borrower,

(i) the Lender is hereby irrevocably authorized and empowered (in its own name or in the name of the Subordinated Creditor or otherwise), but shall have no obligation, to demand, sue for, collect and receive every payment or distribution referred to in subsection (a) above and give acquittance therefor and to file claims and proofs of claim and take such other action (including without limitation voting the Subordinated Debt or enforcing any security interest or other lien securing payment of the Subordinated Debt) as it may deem necessary or advisable for the exercise or enforcement of any of the rights or interests of the Lender hereunder; and

(ii) the Subordinated Creditor shall duly and promptly take such action as the Lender may request (A) to collect the Subordinated Debt for account of the Lender and to file appropriate claims or proofs of claim in respect of the Subordinated Debt, (B) to execute and deliver to the Lender such powers of attorney, assignments or other instruments as it may request in order to enable it to enforce any and all claims with respect to, and any security interests and other liens securing payment of, the Subordinated Debt, and (C) to collect and receive any and all payments or distributions which may be payable or deliverable upon or with respect to any security for the Subordinated Debt.

(c) All payments or distributions upon or with respect to the Subordinated Debt which are received by the Subordinated Creditor contrary to the provisions of this Agreement shall be received in trust for the benefit of the Lender, shall be segregated from other funds and property held by the Subordinated Creditor and shall be forthwith paid over to the Lender in the same form as so received (with any necessary endorsement) to be applied (in the case of cash) to or held as collateral (in the case of non-cash property or securities) for the payment or prepayment of the Obligations in accordance with the terms of the Loan Agreements or other applicable instrument.

(d) The Lender is hereby authorized to demand specific performance of this Agreement, whether or not the Borrower shall have complied with any of the provisions hereof applicable to it, at any time when the Subordinated Creditor shall have failed to comply with any of the provisions of this Agreement applicable to it. The Subordinated Creditor hereby irrevocably waives any defense based on the adequacy of a remedy at law, which might be asserted as a bar to such remedy of specific performance.

(e) In the event at the request of Borrower, the Lender releases any of its security for the Obligations which constitute part or all of the security for the Subordinated Debt, the Subordinated Creditor shall thereupon execute and deliver to Borrower such termination statements and releases as the Lender shall reasonably request to release the Subordinated Creditor's security interest in or lien against such property of Borrower.

SECTION 5. *No Commencement of Any Proceeding.* The Subordinated Creditor agrees that, so long as any of the Obligations shall remain unpaid, it will not commence, or join with any creditor other than the Lender in commencing, any proceeding of the type referred to in Section 4(a).

SECTION 6. *Rights of Subrogation.* The Subordinated Creditor agrees that no payment or distribution to the Lender pursuant to the provisions of this Agreement shall entitle the Subordinated Creditor to exercise any rights of subrogation in respect thereof until the Obligations shall have been paid in full.

SECTION 7. Subordination Legend; Further Assurances. The Subordinated Creditor and the Borrower will cause each instrument evidencing Subordinated Debt to be endorsed with the following legend:

> "The indebtedness evidenced by this instrument is subordinated to the prior payment in full of the Obligations (as defined in the Subordination Agreement hereinafter referred to) pursuant to, and to the extent provided in, the Subordination Agreement dated as of _____, 2002, by the maker hereof and payee named herein in favor of the Lender referred to in such Subordination Agreement."

The Subordinated Creditor and the Borrower each will further mark its books of account in such a manner as shall be effective to give proper notice of the effect of this Agreement and will, in the case of any Subordinated Debt which is not evidenced by any instrument, upon the Lender's request cause such Subordinated Debt to be evidenced by an appropriate instrument or instruments endorsed with the above legend. The Subordinated Creditor and the Borrower each will, at its expense and at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Lender may request, in order to protect any right or interest granted or purported to be granted hereby or to enable the Lender to exercise and enforce its rights and remedies hereunder.

SECTION 8. *No Change in or Disposition of Subordinated Debt; Other Agreements By Subordinated Creditor.* The Subordinated Creditor will not:

(a) Cancel or otherwise discharge any of the Subordinated Debt (except upon payment in full thereof paid to the Lender as contemplated by Section 4(c)) or subordinate any of the Subordinated Debt to any indebtedness of the Borrower other than the Obligations;

(b) Sell, assign, pledge, encumber or otherwise dispose of any of the Subordinated Debt unless such sale, assignment, pledge, encumbrance or disposition is made expressly subject to this Agreement;

(c) Permit the terms of any of the Subordinated Debt to be changed in such a manner as to have an adverse effect upon the rights or interests of the Lender hereunder; or

(d) Exercise any warrants under the Loan and Purchase Agreement, without giving the Lender not less than thirty (30) days' prior written notice thereof.

SECTION 9. *Agreement by the Borrower.* The Borrower agrees that it will not make any payment of any of the Subordinated Debt, or take any other action, in contravention of the provisions of this Agreement.

SECTION 10. *Obligations Hereunder Not Affected.* All rights and interests of the Lender hereunder, and all agreements and obligations of the Subordinated Creditor and the Borrower under this Agreement, shall remain in full force and effect irrespective of

(i) any lack of validity or enforceability of any of the Loan Agreements or any other agreement or instrument relating thereto;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to departure from any provision of the Loan Agreements;

(iii) any exchange, release or nonperfection of any collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Obligations; or

(iv) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Borrower in respect of the Obligations or the Subordinated Creditor in respect of this Agreement.

This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Lender upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

SECTION 11. *Waiver.* The Subordinated Creditor and the Borrower each hereby waive promptness, diligence, notice of acceptance and any other notice with respect to any of the Obligations and this Agreement and any requirement that the Lender protect, secure, perfect or insure any security interest or lien or any property subject thereto or exhaust any right or take any action against the Borrower or any other person or entity or any collateral.

SECTION 12. *Representations and Warranties.* (a) The Borrower hereby represents and warrants as follows:

(i) The Subordinated Debt now outstanding, true and complete copies of instruments evidencing which have been furnished to the Lender, has not been amended or otherwise modified except as set forth in Preliminary Statement (2) above. There exists no default in respect of any such Subordinated Debt.

(ii) The execution, delivery and performance of this Agreement by the Borrower are within its limited liability company powers, have been duly authorized by all necessary limited liability company action, and do not contravene (i) its articles of organization or operating agreement, or (ii) any law or contractual restriction binding on or affecting the Borrower.

(iii) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Borrower of this Agreement.

(iv) This Agreement is a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar laws and equity principles of general application affecting the enforcement of creditors' rights generally.

(b) The Subordinated Creditor hereby represents and warrants as follows:

(i) The Subordinated Debt now outstanding, true and complete copies of the instruments evidencing which have been furnished to the Lender, has not been amended or otherwise modified except as set forth in Preliminary Statement (2) above. There exists no default in respect of any such Subordinated Debt.

(ii) The Subordinated Creditor is a limited partnership duly organized, validly existing and in good standing under the laws of the state of its formation.

(iii) The execution, delivery and performance of this Agreement by the Subordinated Creditor are within its partnership powers, have been duly authorized by all necessary partnership action, and do not contravene (i) the Subordinated Creditor's partnership agreement, or (ii) any law or contractual restriction binding on or affecting the Subordinated Creditor.

(iv) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Subordinated Creditor of this Agreement.

(v) This Agreement is a legal, valid and binding obligation of the Subordinated Creditor, enforceable against the Subordinated Creditor in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar laws and equity principles of general application affecting the enforcement of creditors' rights generally.

(vi) The Subordinated Creditor owns the Subordinated Debt now outstanding free and clear of any lien, security interest, charge or encumbrance and no other party owns an interest in the Subordinated Debt or security therefor other than the undersigned and Don Childress, who has been granted a $200,000 participation interest in the Subordinated Debt (but who, despite such interest, does not need to execute this Agreement in order for his participation interest to be subject to the terms and provisions of this Agreement (whether as joint holders of the Subordinated Debt, participants or otherwise).

SECTION 13. *Amendments, Etc.* No amendment or waiver of any provision of this Agreement or consent to any departure by the Subordinated Creditor or the Borrower therefrom shall in any event be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 14. *Expenses.* The Borrower agrees to pay, upon demand, to the Lender the amount of any and all reasonable expenses, including the reasonable fees and expenses of its

counsel, which the Lender may incur in connection with the exercise or enforcement of any of the rights or interests of the Lender hereunder.

SECTION 15. *Addresses for Notices.* All demands, notices and other communications provided for hereunder shall be in writing (including telegraphic communication), sent by telex, facsimile or electronic device, or delivered to it personally or by courier, and, if to the Subordinated Creditor, addressed to it at Blue Ridge Investors II Limited Partnership, c/o Blue Ridge Investors Group II, LLC, First Union Tower, P. O. Box 21962, Greensboro, N.C. 27420, Attention: Russell R. Myers and Kevin B. Jessup, Facsimile: (336) 275-9155, if to the Borrower, addressed to it at Aerosol Packaging, LLC, 3150 Moon Station Road, Kennesaw, Georgia 30144, Facsimile: (770) 425-8634, and if to the Lender addressed to it at SouthTrust Bank, Greensboro Office, 333 North Greene Street, Greensboro, North Carolina 27401, Facsimile: (336) 541-1119, or as to each party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section.

SECTION 16. *No Waiver, Remedies.* No failure on the part of the Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 17. *Continuing Agreement; Transfer of Notes.* This Agreement is a continuing agreement and shall (i) remain in full force and effect until the Obligations shall have been paid in full, (ii) be binding upon the Subordinated Creditor, the Borrower and their respective successors, transferees and assigns, and (iii) inure to the benefit of and be enforceable by the Lender and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Lender may assign or otherwise transfer any notes held by it to any other person or entity, and such other person or entity shall thereupon become vested with all the rights in respect thereof granted to such Lender herein or otherwise. In the event the undersigned shall have any right under applicable law to terminate or revoke this Agreement, such termination or revocation shall not be effective until written notice of such termination or revocation signed by the Subordinated Creditor is actually received by the Lender. In the absence of the circumstances described in the immediately preceding sentence, the Lender may continue at any time and without notice to the undersigned to extend credit or other financial accommodation and loan monies to or for the benefit of the Borrower as contemplated in the Loan Agreements on the faith hereof up to a maximum outstanding of $3,500,000.00, and any termination or revocation shall not affect (a) Obligations which arose prior to receipt by the Lender of the notice of termination or revocation or (b) any Obligations created after receipt of such notice if such Obligations were incurred either through readvances by the Lender of advances repaid by the Borrower up to the principal amount of Obligations outstanding on the date of receipt of such notice or for the purpose of protecting any collateral, including, without limitation, all protective advances, costs, expenses and attorneys' and paralegals' fees, whensoever made, in connection with the Obligations or the security therefor.

SECTION 18. *Governing Law.* This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Subordinated Creditor and the Borrower each has caused this Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

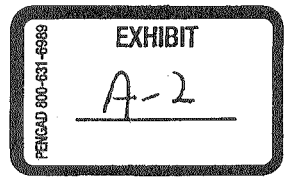
AEROSOL PACKAGING, LLC (SEAL)

By: _____
Leigh A. Fragnoli, Member & President

BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP (SEAL)

By: BLUE RIDGE INVESTORS GROUP II, LLC (SEAL), General Partner

By: _____
_____, its Manager



AMENDMENT TO SUBORDINATION AGREEMENT

AMENDMENT TO SUBORDINATION AGREEMENT (this "Amendment"), dated as of October 6, 2003, made by BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP, a Delaware limited partnership (the "Subordinated Creditor"), and AEROSOL PACKAGING, LLC, a Georgia limited liability company (the "Borrower"), and SOUTHTRUST BANK (the "Lender").

PRELIMINARY STATEMENTS:

(1) The Subordinated Creditor and the Borrower executed in favor of Lender a Subordination Agreement dated October 6, 2003 (the "Subordination Agreement"), made a part hereof by this reference as fully as if set out herein verbatim. Capitalized terms used herein and not otherwise defined herein have the meanings set forth the Subordination Agreement.

(2) Lender is about to extend new credit facilities to Borrower which constitute additional Obligations of the Borrower to Lender under the terms of the Subordination Agreement, in the maximum aggregate principal amount of $2,732,000.00.

(3) Lender has required, in connection with the extension of the additional Obligations, an amendment to the Subordination Agreement to increase the maximum amount of the Obligations from $3,500,000.00 to $4,000,000.00 and to have the Subordinated Creditor acknowledge the additional Obligations between Lender and Borrower and ratify and affirm the Subordination Agreement.

(4) It is a condition precedent to the making of advances by Lender under the additional Obligations that the Subordinated Creditor and Borrower shall have executed and delivered this Amendment.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to make advances under the new Obligations, the Lender, the Subordinated Creditor and the Borrower each hereby agree as follows:

A. Section 1 of the Subordination Agreement is hereby amended to change the maximum amount of the Obligations from $3,500,000.00 to $4,000,000.00.

B. The Subordinated Creditor hereby acknowledges that the Lender is extending to the Borrower additional credit facilities in the total aggregate principal amount of $2,732,000.00 and that such new credit facilities constitute "Obligations" under the Subordination Agreement and are entitled to the full benefits of the Subordination Agreement.

C. The Subordinated Creditor and the Borrower hereby ratify and affirm the Subordination Agreement and do further confirm that the Subordination Agreement, as amended, is in full force and effect.

This Amendment shall be governed by, and construed in accordance with, the laws of the State of Georgia without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Lender, the Subordinated Creditor and the Borrower each has caused this Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

AEROSOL PACKAGING, LLC (SEAL)

By: _____ (SEAL)
Leigh A. Fragnoli, Member & President

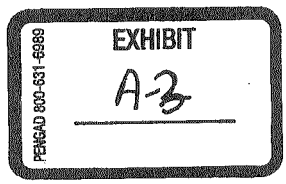
BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP (SEAL)

By: BLUE RIDGE INVESTORS GROUP II, LLC, General Partner (SEAL)

By: _____
_____, its Manager

SOUTHTRUST BANK

By: _____
Name: _____
Title: _____



SECOND AMENDMENT TO SUBORDINATION AGREEMENT

This SECOND AMENDMENT TO SUBORDINATION AGREEMENT (this "Second Amendment"), dated as of July 20, 2005, is made by BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP, a Delaware limited partnership (the "Subordinated Creditor"), AEROSOL PACKAGING, LLC, a Georgia limited liability company (the "Borrower"), and WACHOVIA BANK, NATIONAL ASSOCIATION, successor-by-merger to SouthTrust Bank (the "Lender").

PRELIMINARY STATEMENTS:

(1) The Subordinated Creditor and the Borrower executed in favor of the Lender a Subordination Agreement dated on or about December 5, 2002 (the "Subordination Agreement"), which Subordination Agreement is made a part hereof by this reference as fully as if set out herein verbatim. Capitalized terms used herein and not otherwise defined herein have the meanings set forth the Subordination Agreement.

(2) On or about October 6, 2003, the Lender, the Subordinated Creditor and the Borrower entered in an Amendment to Subordination Agreement (the "First Amendment") pursuant to which they, inter alia, changed the maximum amount of the Obligations to $4,000,000.

(3) Since the execution of the First Amendment, both the Lender and the Subordinated Creditor have made additional loans to the Borrower, all of which were made subject to the terms of the Subordination Agreement.

(4) Borrower and Lender are also parties to that certain Forbearance Agreement and Release (the "Forbearance Agreement"), dated March 31, 2005, pursuant to which the Lender agreed, inter alia, to increase the amount of its line of credit to the Borrower and to forbear from the exercise of the rights and remedies which the Lender was then entitled to exercise for a period extending no longer that August 1, 2005.

(5) Lender has agreed, on certain terms and conditions set forth in an Amendment to Forbearance Agreement and Release (the "Forbearance Amendment"), to be dated substantially contemporaneously herewith, to extend the outside date of Lender's forbearance to October 31, 2005.

(6) It is a condition precedent to the execution and delivery of the Forbearance Amendment that the Subordinated Creditor and Borrower shall have executed and delivered this Second Amendment.

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to execute and deliver the Forbearance Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lender, the Subordinated Creditor and the Borrower, intending to be legally bound, each hereby agree as follows:

A Section 1 of the Subordination Agreement is hereby amended to change the maximum amount of the Obligations from $4,000,000.00 to $4,500,000.00.

B Lender hereby acknowledges that Subordinated Creditor has made the following loans to Borrower in addition to the $1,850,000 loan described in the Subordination Agreement: (a) $200,000, loaned by Subordinated Creditor to Borrower on or about November 4, 2004, (b) $250,000 loaned by Subordinated Creditor to Borrower on or about January 24, 2005 and (c) $250,000 loaned by Subordinated Creditor to Borrower on or about February 14, 2005. Lender hereby further acknowledges that Subordinated Creditor and Borrower intend to consolidate the original $1,850,000 loan and the three (3) foregoing additional loans into a single note, and to extend the repayment terms thereof. So long all such loans constitute "Subordinated Debt" under the Subordination Agreement, which the Subordinated Lender hereby acknowledges and agrees to, the Lender hereby consents to the making of the additional loans by Subordinated Creditor to the Borrower, to the granting by the Borrower to the Subordinated Creditor of a security interest in the assets of the Borrower to secure such additional loans that is junior to that of the Lender, and to the consolidation of such additional loans with the original $1,850,000 loan into one (1) promissory note in an original principal amount of $2,550,000, which note shall be subordinate in all respects to any and all obligations of the Borrower to the Lender and shall be legended as required in the Subordination Agreement.

C Subordinated Creditor hereby acknowledges and consents in all respects to the Forbearance Agreement and the Forbearance Amendment, and to the amendments to the Loan Agreements made therein including, without limitation, the increase in the line of credit provided to Borrower by Lender therein.

D Subordinated Creditor represents and warrants to the Lender that all of the obligations owed to it by the Borrower are described in Paragraph B above, and acknowledges that all of such obligations constitute "Subordinated Debt" under the Subordination Agreement.

E The Subordinated Creditor and the Borrower hereby ratify and affirm the Subordination Agreement as amended herein and do further confirm that the Subordination Agreement, as amended to date, is in full force and effect.

This Second Amendment may be executed in multiple counterparts which shall together constitute one original document. Facsimile signatures are sufficient for the purposes of this Second Amendment. This Second Amendment shall be governed by, and construed in accordance with, the laws of the State of Georgia without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Lender, the Subordinated Creditor and the Borrower each has caused this Second Amendment to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

AEROSOL PACKAGING, LLC (SEAL)

By: _____ (SEAL)
Leigh A. Fragnoli, Member & President

BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP (SEAL)

By: BLUE RIDGE INVESTORS GROUP II, LLC, General Partner (SEAL)

By: _____
Name: _____
Title: _____

WACHOVIA BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Lender, the Subordinated Creditor and the Borrower each has caused this Second Amendment to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

AEROSOL PACKAGING, LLC (SEAL)

By:_____ (SEAL)
Leigh A. Fragnoli, Member & President

BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP (SEAL)

By: BLUE RIDGE INVESTORS GROUP II, LLC, General Partner (SEAL)

By: _____
Name: Kevin Jessup
Title: Manager / Partner

WACHOVIA BANK, NATIONAL ASSOCIATION

By:_____
Name:_____
Title:_____

IN WITNESS WHEREOF, the Lender, the Subordinated Creditor and the Borrower each has caused this Second Amendment to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

AEROSOL PACKAGING, LLC (SEAL)

By:_____ (SEAL)
Leigh A. Fragnoli, Member & President

BLUE RIDGE INVESTORS II LIMITED PARTNERSHIP (SEAL)

By: BLUE RIDGE INVESTORS GROUP II, LLC, General Partner (SEAL)

By: _____
Name:_____
Title:_____

WACHOVIA BANK, NATIONAL ASSOCIATION

By:_____
Name: FRANK DARROW
Title: Senior Vice President

EXHIBIT "B" FOLLOWS

SEYFARTH SHAW LLP
ATTORNEYS

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Atlanta, GA 30309-2401
404-885-1500
fax 404-892-7056
www.seyfarth.com

November 22, 2006

VIA FAX# 336-275-9155 AND
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
#7004-2510-0003-6633-1061
Blue Ridge Investors II Limited Partnership
c/o Blue Ridge Investors Group II LLC
First Union Tower
P.O. Box 21962
Greensboro, North Carolina 27420
Attn: Russell R. Myers and Kevin B. Jessup

VIA FAX# 404-564-9301 AND
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
#7004-2510-0003-6633-1054
M. Denise Dotson, Esq.
Jones & Walden, LLC
21 Eighth Street, NE
Atlanta, GA 30309

Re: Subordination Agreement, dated December 5, 2002, by and between Blue Ridge Investors II Limited Partnership and Wachovia Bank, National Association, successor by merger to SouthTrust Bank

Dear Sir/Madam:

As you know, this Firm is counsel to Wachovia Bank, National Association, successor by merger to SouthTrust Bank ("Wachovia"), with regard to its lending relationship with Aerosol Packaging, LLC d/b/a Aerosol Specialties ("Aerosol") and its related relationship with Blue Ridge Investors II Limited Partnership ("Blue Ridge") pursuant to the referenced Subordination Agreement, dated December 5, 2002 (as amended to date, the "Subordination Agreement"), by and between Blue Ridge and Wachovia. Terms with initial capital letters used in this letter but not defined herein are used as defined in the Subordination Agreement unless otherwise indicated.

As you also know, Aerosol is a Chapter 11 debtor and debtor in possession in Case. No. 06-67096 (the "Bankruptcy Case"), pending in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the "Bankruptcy Court"). In the Bankruptcy Case, the "Disclosure Statement for Debtor's Revised Second Amended Chapter 11 Plan, dated on or about November 22, 2006" (the "Disclosure Statement") has recently been approved, and has been or will soon be sent out to creditors, along with the associated "Debtor's Revised Second Amended Plan of Reorganization", dated on or about November 22, 2006" (the "Plan"), for voting and objection. The deadline for voting on the Plan and for objections thereto is December 13, 2006.

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As you know, the Subordination Agreement has numerous provisions that are relevant to the conduct of Blue Ridge in the Bankruptcy Case, and to any distributions to which Blue Ridge might otherwise be entitled under the Plan. As you have been advised previously, Wachovia intends to enforce any and all of its rights under the Subordination Agreement.

Without limiting the generality of the foregoing, please be advised that Wachovia views any effort by Blue Ridge to object to the Plan, or to vote against the Plan, as actions that are violative of the Subordination Agreement including, without limitation, Section 2 thereof. Should Blue Ridge take any such actions, Wachovia intends to hold Blue Ridge responsible for any and all damages that Wachovia may suffer as a result of these breaches of the terms of the Subordination Agreement, and reserves the right to seek specific performance of Blue Ridge's obligations thereunder and injunctive relief against any breach thereof.

Please be further advised that Wachovia intends to enforce fully is rights under the Subordination Agreement to have paid to it any and all distributions made or to be made under the Plan until the Obligations have been paid in full in cash including, without limitation, those rights that is has with respect thereto under Sections 4(a) and 4(c) of the Subordination Agreement.

Pursuant to the terms of Sections 4(b)(ii), 4(e) and 7 of the Subordination Agreement, Wachovia hereby requests in writing that Blue Ridge take the following specific actions with respect to the Subordinated Debt and the Plan:

1) Execute and deliver to the undersigned on or before December 1, 2006 a ballot for voting on the Plan, marked to vote unconditionally in favor of the Plan, duly executed by authorized representatives of Blue Ridge and otherwise ready for filing with the Bankruptcy Court in the Bankruptcy Case;

2) Execute and deliver to the undersigned on or before December 1, 2006, a pleading of Blue Ridge, ready for filing with the Bankruptcy Court in the Bankruptcy Case, indicating that Blue Ridge has no objection to the confirmation of the Chapter 11 Plan, withdrawing any and all previously filed objections to the Plan or the Disclosure Statement, and waiving without reservation any further right to object to the Plan or the confirmation thereof by the Bankruptcy Court.

3) Prepare for filing and deliver to Aerosol (for use by Aerosol only in connection with a "Closing" as defined in the Plan) on or before December 1, 2006, (i) UCC-1 termination statements for all UCC-1 financing statements filed at any time by or on behalf of Blue Ridge, to the extent such UCC-1 financing statements perfect interests in assets of Aerosol that are collateral for the Obligations and that are being sold pursuant to the Plan, together with any and all documents, instruments and releases necessary or appropriate to release any and all security interests that Blue Ridge may have or claim to have in such assets.

SEYFARTH SHAW LLP
ATTORNEYS

If you require specific forms for any of the foregoing, please inform the undersigned immediately, and I will provide them to you. Should you fail to deliver all of the foregoing items timely, Wachovia reserves the right under the express terms of the Subordination Agreement (i) to request a court to compel compliance by Blue Ridge or (ii) to take such actions itself on behalf of Blue Ridge.

Finally, please note the following change of address for Wachovia under the Subordination Agreement. Future notices to Wachovia under the Subordination Agreement should be sent to: Wachovia Bank, National Association, 171 17th Street, 8th Floor, Building 100, GA4565, Atlanta, Georgia 30363, with a copy to Seyfarth Shaw LLP, 1545 Peachtree Street, Suite 700, Atlanta, Georgia 30309, Attn: Paul Baisier.

I look forward to receiving the requested items in a timely manner, and to the full and complete compliance by Blue Ridge with the terms and conditions of the Subordination Agreement.

Govern your actions accordingly.

Sincerely,

SEYFARTH SHAW LLP

Paul M. Baisier

PMB/cah
Enclosure
cc: Mr. Frank Darrow (via telecopier)

Blue Ridge Investors II Limited Partnership (**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED #7004-2510-0003-6633-0361**)
300 North Greene Street, Suite 2100
Greensboro, NC 27401
Attn: Russell R. Myers and Kevin B. Jessup

IN THE UNITED STATES BANKRUPTCY COURT
FOR THENORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 11
AEROSOL PACKAGING, LLC, A Georgia limited liability company, Debtor.	:	CASE NO.06-67096-mhm
BLUE RIDGE INVESTORS, II,LP, Movant, vs. WACHOVIABANK, N.A. and AEROSOL PACKAGING, LLC, Respondents.	:	CONTESTED MATTER

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing via U.S. Mail upon the following:

Office of the US Trustee
362 Richard B. Russell Federal Bldg.
75 Spring Street, SW
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JONES & WALDEN, LLC

/s/ M Denise Dotson
M. Denise Dotson
Georgia Bar No. 227230
21 Eighth Street
Atlanta, GA 30309
(404) 564-9300