

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

| | | |
|---|---|-------------------------------|
| COMMONWEALTH OF VIRGINIA, |) | |
| EX REL. MARK R. HERRING, |) | |
| ATTORNEY GENERAL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. _____ |
| |) | |
| SHOCKOE BOTTOM AUTOMOTIVE & |) | |
| TIRES, INC. d/b/a SHOCKOE BOTTOM |) | |
| TIRES/EMERALD TIRES, |) | |
| a Virginia corporation, |) | |
| |) | |
| SERVE: Nakeeha Young, Registered Agent |) | |
| 4800 Midlothian Turnpike |) | |
| Richmond, Virginia 23223 |) | |
| |) | |
| Defendant. |) | |

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by, through, and at the relation of the Attorney General of Virginia, Mark R. Herring (the "Plaintiff" or the "Commonwealth") petitions this Court to declare that the activities in which the Defendant, Shockoe Bottom Automotive & Tire, Inc. d/b/a Shockoe Bottom Tires/Emerald Tires ("Shockoe Bottom Tires" or the "Defendant"), has engaged constitute violations of § 59.1-200(A)(5), (8) and (14) of the Virginia Consumer Protection Act ("VCPA") and Virginia Code § 18.2-217(a), the criminal "bait and switch" statute. The Plaintiff prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Commonwealth brings this action pursuant to the authority set forth in § 59.1-203 of the VCPA, which provides, *inter alia*, that the Attorney General may bring an action to enjoin any violation of the VCPA; and § 59.1-68.2, which provides, *inter alia*, that the Attorney General may bring an action to enjoin any violation of §18.2-217(a).
2. The Circuit Court for the City of Richmond has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-68.2, 59.1-203, 59.1-205, and 59.1-206.
3. Venue is permissible in this Court pursuant to § 8.01-262(1), because Defendant's principal office or principal place of business is located in the City of Richmond. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in the City of Richmond.
4. In accordance with Virginia Code § 59.1-203(B), prior to commencement of this action, the Plaintiff gave the Defendant written notice that these proceedings were contemplated and a reasonable opportunity to appear before the Office of the Attorney General to demonstrate that no violations of the VCPA had occurred, or in the alternative, to execute an appropriate Assurance of Voluntary Compliance that is acceptable to the Commonwealth. Defendant did not respond to the notice.

PARTIES

5. The Plaintiff is the Commonwealth of Virginia, by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.
6. The Defendant, Shockoe Bottom Automotive & Tires, Inc. is a Virginia corporation with its principal business address at 2500 E. Main Street, Richmond, Virginia 23223. The

Defendant holds itself out as a business called “Shockoe Bottom Tires,” as well as an affiliated location of “Emerald Tires.”

FACTS

7. Shockoe Bottom Tires is a business that sells and provides services for new and used tires at its physical location, 2500 E. Main Street in Richmond.
8. At this location, Shockoe Bottom Tires displays large, prominent signs that read “\$25 ANY TIRES/ANY SIZE” and “ALIGNMENT WITH (2) OR MORE PREMIUM USED & NEW TIRES” on the front and side of the building. See Exs. 3, 3A, 4, 4A.
9. On at least two occasions, Shockoe Bottom Tires refused to honor the \$25 displayed price or provide an alignment with the purchase of two or more tires.
10. In addition, at this location, Shockoe Bottom Tires displays in its front window signage offering “BUY 3 GET 1 FREE” AND “FREE ALIGNMENTS WITH PREMIUM TIRE PURCHASE.” See Exs. 1, 1A
11. On at least one occasion, Shockoe Bottom Tires refused to honor these terms.
12. Shockoe Bottom Tires also advertises its business on a website, www.emeraldtires.com, where it is listed as a “location” of Emerald Tires. See Ex. 2
13. As of October 9, 2015, a coupon was available on this site for offering “BUY 3 TIRES...AND GET THE 4TH TIRE FREE!” See Ex. 2A
14. On at least one occasion, Shockoe Bottom Tires refused to honor the terms of this coupon when it was presented.
15. On or about October 19, 2015, a Virginia consumer (“the consumer”) attempted to buy four tires from Shockoe Bottom Tires at the advertised \$25 price, but was told the cost would be \$40 per tire.

16. The consumer also sought a free alignment with her purchase (of four tires), but was denied and told that the sign on the front of the building was “no longer valid.”
17. The consumer presented an employee of Shockoe Bottom Tires with the online coupon offering a fourth tire free with the purchase of three. The employee stated “the coupon was from last year,” though its expiration date on the site was listed as November 7, 2015. Ex. 2A
18. The consumer observed the signage in the front window of the store, offering both a fourth tire with the purchase of three and “free alignments,” and inquired about it with an employee of Shockoe Bottom Tires. Exs. 1, 1A
19. The employee stated that the sign was only posted to show the store’s phone number, and refused to honor the displayed offers.
20. On December 4, 2015, an investigator employed by the Commonwealth (“the investigator”) made an onsite visit to Shockoe Bottom Tires.
21. The investigator spoke with an employee of Shockoe Bottom Tires and asked about the \$25 tires for the vehicle he was driving. He was told that they did not have any tires at that price, and instead the employee offered him tires at \$85 apiece.
22. The investigator also asked about the two tire purchase free alignment, and the employee responded that there was “no alignment.”
23. At the time of this onsite visit, the investigator observed signs on the exterior of the building offering “\$25 ANY TIRES/ANY SIZE” and an “ALIGNMENT WITH (2) OR MORE PREMIUM USED & NEW TIRES”. Exs. 3A, 4A.

CAUSES OF ACTION

COUNT 1 – Virginia Consumer Protection Act

24. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1 through 23 above.
25. Shockoe Bottom Tires is now, and was at all relevant times mentioned herein, a "supplier" of "goods" or "services," and engaged in "consumer transactions," as those terms are defined in § 59.1-198 of the VCPA, by advertising, offering, and providing tires and tire-related services to consumers.
26. By advertising and offering tires for sale at one price (\$25) with the intent not to sell at that price, the Defendant violated the VCPA in the following manner:
- (a) misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, in violation of § 59.1-200(A)(5);
 - (b) advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised, in violation of § 59.1-200(A)(8);
and
 - (c) using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, in violation of § 59.1-200(A)(14).
27. By advertising and offering tires "BUY 3 GET 1 FREE," with the intent not to sell the tires at this price or upon the terms advertised, Defendant violated the VCPA in the following manner:
- (a) misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, in violation of § 59.1-200(A)(5);
 - (b) advertising goods or services with intent not to sell them as advertised, or with intent

not to sell at the price or upon the terms advertised, in violation of § 59.1-200(A)(8);
and

(c) using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, in violation of § 59.1-200(A)(14).

28. Moreover, by advertising and offering a tire alignment service as included with the purchase of tires, or otherwise advertising a “free alignment,” with the intent not to sell this service at the price or upon the terms advertised, Defendant violated the VCPA in the following manner:

(a) misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, in violation of § 59.1-200(A)(5);

(b) advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised, in violation of § 59.1-200(A)(8);
and

(c) using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, in violation of § 59.1-200(A)(14).

29. The VCPA authorizes the Attorney General to seek, among other relief, restitution for any amounts that might have been acquired from persons by means of a violation of § 59.1-200, civil penalties of not more than \$2,500 per willful violation, investigative costs and reasonable expenses not to exceed \$1,000 per violation, and attorney's fees.

30. The Defendant willfully committed the aforesaid violations of §§ 59.1-200(A)(5), (8), and (14).

31. At least one individual consumer has suffered losses as a result of the aforesaid violations by the Defendant.

COUNT II – Bait and Switch Statute

32. The Commonwealth re-alleges and incorporates by reference the allegations of paragraphs 1 through 31 above.
33. By advertising and offering for sale tires at one price with the intent not to sell at that price, Defendant violated Virginia Code § 18.2-217(a).
34. By advertising and offering tires “BUY 3 GET 1 FREE,” with the intent not to sell at this price or upon the terms advertised, Defendant violated Virginia Code § 18.2-217(a).
35. In addition, by advertising and offering a tire alignment service as included with the purchase of tires, with the intent not to sell this service at the price or upon the terms advertised, Defendant violated Virginia Code § 18.2-217(a).
36. The Attorney General has authority to bring an action to enjoin any violation of Chapter 6, Article 8 of Title 18.2 of the Code of Virginia, including, but not limited to, violations of Virginia Code § 18.2-217(a), pursuant to Virginia Code § 59.1-68.2.

PRAYER FOR RELIEF


WHEREFORE, the Plaintiff, Commonwealth of Virginia, prays that this Court:

- A. Permanently enjoin Shockoe Bottom Tires from any future violations of the VCPA, including §§ 59.1-200(A)(5), (8), and (14), and § 18.2-217(a), of the Code of Virginia;
- B. Grant judgment to the Commonwealth, as trustee, against Shockoe Bottom Tires in an amount necessary to make restitution or restoration to any consumer for any amounts they were charged exceeding the amounts advertised and offered by Shockoe Bottom Tires, pursuant to Virginia Code § 59.1-205;
- C. Grant judgment to the Commonwealth against Shockoe Bottom Tires for civil penalties

in the amount of \$2,500 for each and every separate willful violation proven at trial, pursuant to Virginia Code § 59.1-206;

- D. Grant judgment to the Commonwealth against Shockoe Bottom Tires for its costs, reasonable investigative expenses, and attorney's fees, pursuant to Virginia Code § 59.1-206; and
- E. Order such other and further relief as may be deemed proper and just.

**COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL**

By: 
Joelle E. Gotwals

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Rhodes B. Ritenour
Deputy Attorney General

Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief
Consumer Protection Section

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SHOCKOF BOTTOM TIRES
"Richmond's New & Used Tire Center"

**BUY 3
GET 1
FREE**
CHECK OUT OUR
NEW TIRE
PRICES

804-344-3378

NOT JUST ANOTHER USED TIRE STORE
FREE ALIGNMENTS WITH PREMIUM TIRE PURCHASE
 2500 E. MAIN STREET RICHMOND, VA 804-344-3378



Best Find Tires
 6820 Nine Mile Rd
 (804) 737-6800

SHOCKOF BOTTOM TIRES
 2500 E. Main Street
 (804) 344-3378

RENOVON TIRE
 1909 Jefferson Davis Hwy
 (804) 231-0911

DISCOUNT TIRE
 3702 Hill Street
 (804) 793-4411

FREE ALIGNMENTS
 Bring In This Coupon..... LIMITED TIME OFFER

Exhibit 1

STOCK OF BOTTOM TIRES

Richmond's New & Used Tire Dealer



804-344-3378

NOT JUST ANOTHER USED TIRE STORE
THE ALIGNMENTS WITH PREMIUM TIRE PURCHASE

DEL MAR STREET RICHMOND VA 23220-3378



Everold Tires
1000 Middlefield Japh
(804) 337-1343

EVEROLD TIRE
1909 Jefferson Ave
(804) 233-0100

ALL THE TIRES
6000 W. WIDE R
(804) 233-5000

STOCK OF BOTTOM TIRE
2500 E Main Street
(804) 337-1343

Bring In This Coupon

FREE ALIGNMENTS

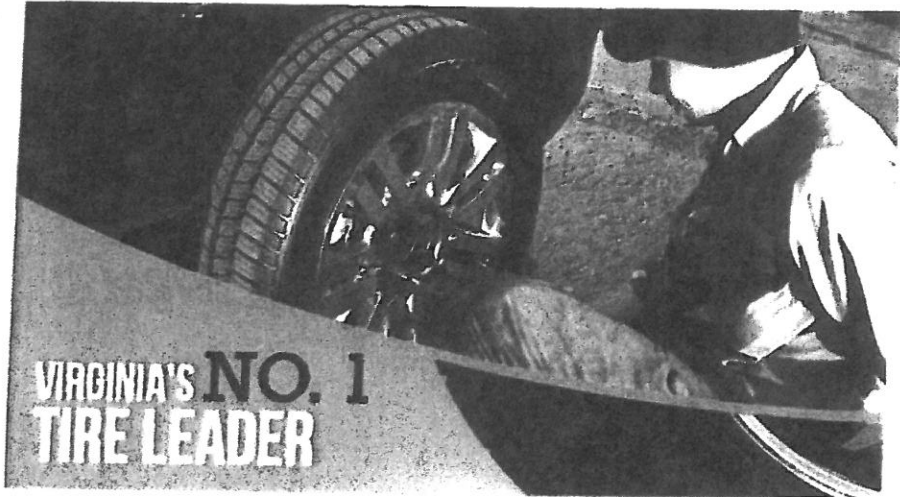
Bring In This Coupon..... LIMITED TIME OFFER

Exhibit 1A



WE SELL NEW AND QUALITY USED TIRES TO VEHICLE OWNERS,
BOTH INDIVIDUAL CONSUMERS AND COMMERCIAL FLEET OWNERS.

contactus@emeraldtyres.com



WE HAVE 6 LOCATIONS TO SERVE YOU

- Emerald Quality Used & New Tires**
4800 Montross Turnpike Richmond, VA 23229
Call 804-233-4343
- Tire Kingdom**
1015 Jefferson Davis Hwy Richmond, VA 23224
Call 804-233-0371
- Emerald Quality Used & New Tires**
2615 Cranberry Ave Richmond, VA 23227
Call 804-321-4343
- East End Tire & Auto Services**
8820 Nine Mile Rd Richmond, VA 23223
Call 804-737-6800
- Shockoe Bottom Tyres**
2500 E. Main Street Richmond, VA 23223
Call 804-344-3375
- Discount Tire, Inc.**
3702 Hill Street Rd Richmond, VA 23224
Call 804-231-4444

WELCOME TO OUR SITE!

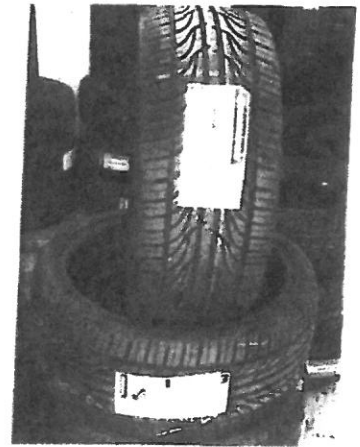
We get our quality tires from [Wholesale Tires USA](#)

Our goal is to provide customers with a better product than our competitors, at a lower cost! We carry both used and new tires.

The purchase of quality used tires can save the consumer approximately 60% of the cost of new tires. The average cost of a new 17" leading manufacturer tire is no less than \$250.00. We carry that same manufacturer, with up to 95% tread remaining, for less than half the cost.

FULL SET OF 215-55-17 \$300.00

Cost Comparison:
215-55-17 Michelin Primacy MXM4
\$250 each – suggested retail cost (new)
\$179 each – our cost (new)
\$81.25 each – our cost (used)
\$800 full set – our cost (new)



TIRE BRANDS WE TRUST & SUPPORT





WE SELL NEW AND QUALITY USED TIRES TO VEHICLE OWNERS,
BOTH INDIVIDUAL CONSUMERS AND COMMERCIAL FLEET OWNERS.

contactus@emeraldtyres.com

HOME ABOUT US LOCATIONS ONLINE COUPONS SHOP NOW TIRE FACTS FRANCHISE OPPORTUNITIES

ONLINE COUPONS

EMERALD TIRES

BUY 3 TIRES (17"-20") AND GET THE 4TH TIRE FREE!
(used tires ONLY)

EMERALD AUTO SERVICES
804-290-4343
THE TIRE CENTER
804-233-0371
EMERALD QUALITY USED & NEW TIRES
804-921-4343
EAST END TIRE & AUTO SERVICES
804-737-6600
SHOCKOE BOTTOM TIRE
804-344-3378
DISCOUNT TIRE
804-231-4444

Expires: 11-07-2015

Offer not valid with any other specials or discounts. Coupon must be presented at time of purchase.

TIRE BRANDS WE TRUST & SUPPORT



AND OTHER QUALITY TIRE BRANDS

EMERALD TIRES

**\$10 off wheel alignment with the purchase of
New Tires or High Quality Used Tires**
ALIGNMENTS PERFORMED AT DISCOUNT TIRE LOCATION ONLY
YOU MAY PURCHASE TIRES AT ANY LOCATION

EMERALD AUTO SERVICES
804-290-4343
THE TIRE CENTER
804-233-0371
EMERALD QUALITY USED & NEW TIRES
804-921-4343
EAST END TIRE & AUTO SERVICES
804-737-6600
SHOCKOE BOTTOM TIRE
804-344-3378
DISCOUNT TIRE
804-231-4444

Expires: 11-07-2015

Offer not valid with any other specials or discounts. Coupon must be presented at time of purchase.

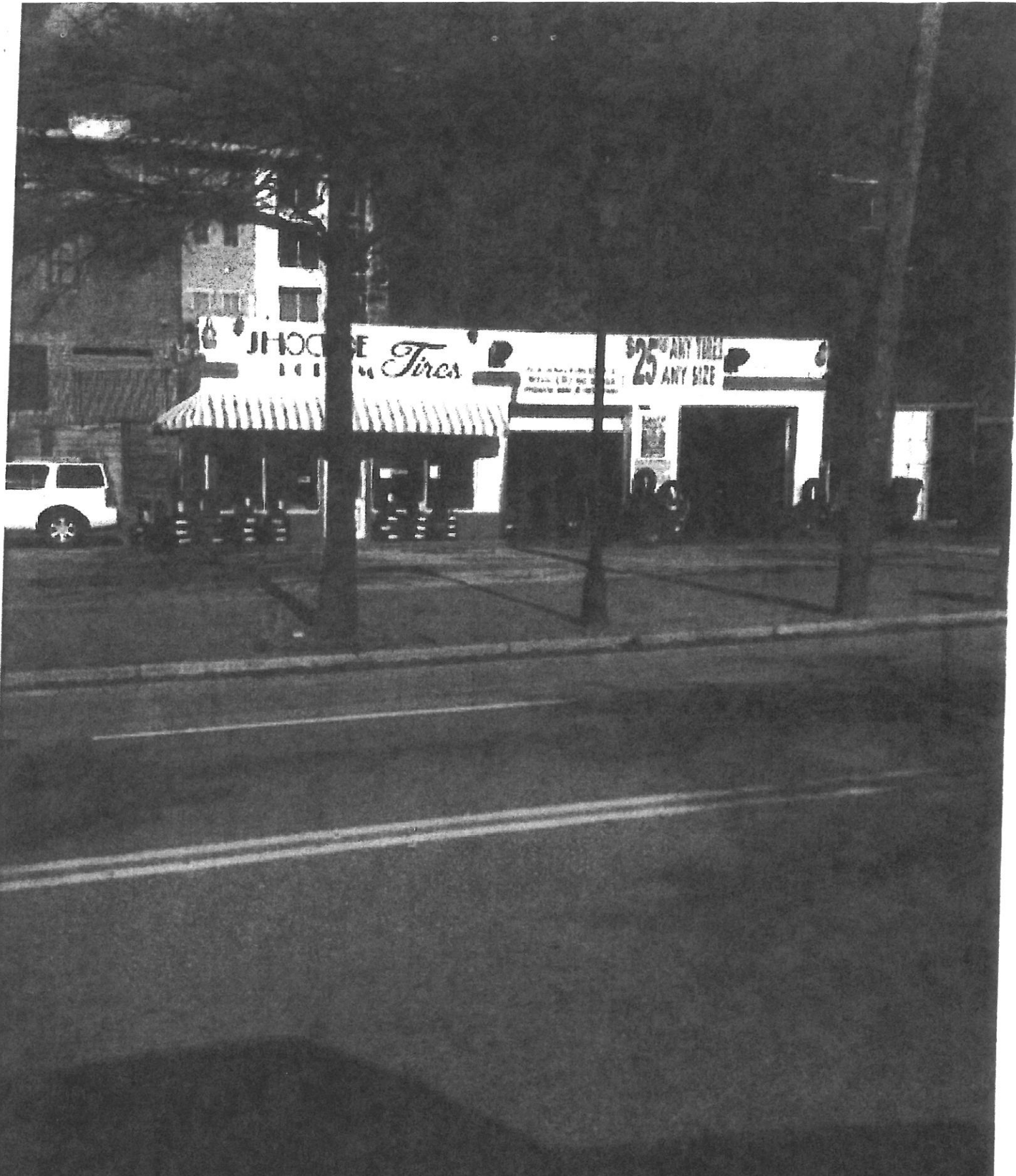


Exhibit 3

2/15/2016 ASA

**\$25⁰⁰ ANY TIRES
ANY SIZE**

...
WITH (2) ON ...
PREMIUM BRAND & NEW TIRES

...
...
...
...
...

WARNING
CUSTOMERS ARE NOT
...
...
...
...
...



Exhibit 3A

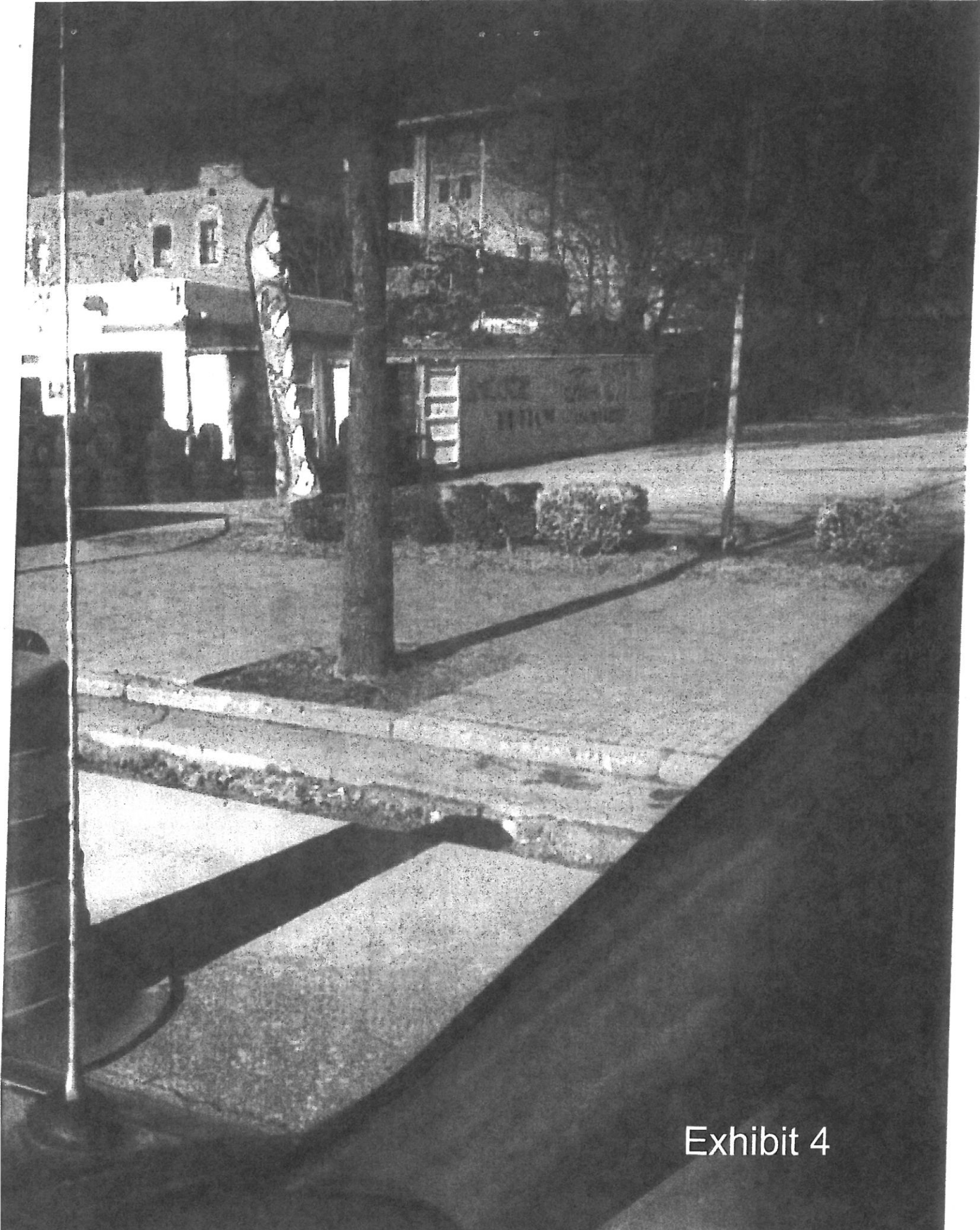


Exhibit 4

USA 1/15/16

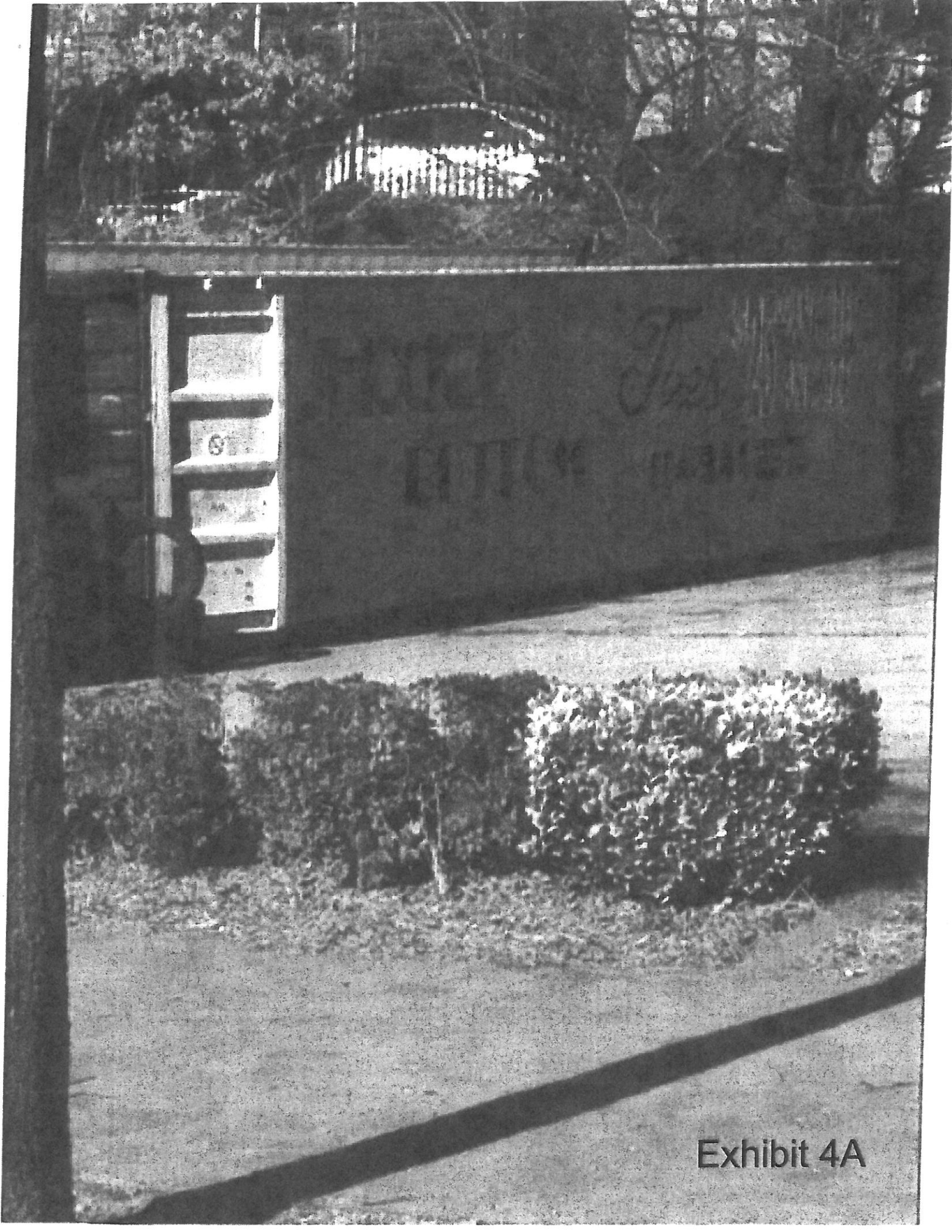


Exhibit 4A