IT IS FURTHER RECOMMENDED that the election which was conducted on July 7, 1965, be set aside and a new election held at an appropriate time to be fixed by the Regional Director

IT IS FURTHER RECOMMENDED that the complaint herein be dismissed insofar as it alleges violations of Section 8(a)(3) of the Act

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that

WE WILL NOT offer employees economic benefits if they refrain from supporting the Union

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their right to self organization, to form, join, or assist Teamsters Local 822, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America or any other labor organization to bargain collectively through representatives of their own choosing or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection or to refrain from any or all such activities

All our employees are free to become or remain, or to refrain from becoming or remaining, members of the above named or any other labor organization

OVERNITE TRANSPORTATION COMPANY,
Employer

Dated_____ By_____ _____
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, Sixth Floor, 707 North Calvert Street, Baltimore, Maryland, Telephone No 752-2159

Cherryvale Manufacturing Company, Inc *and* Helen M Britts and Betty Stacy, Petitioners, and The United Garment Workers of America, AFL-CIO, Local 413 *Case No 17-RD-293*
May 16, 1966

DECISION ON REVIEW AND ORDER

On December 14, 1965, the Regional Director for Region 17 issued a Decision and Direction of Election in the above-entitled proceeding Thereafter, in accordance with the National Labor Relations Board's Rules and Regulations, the Employer and the Union filed requests for review of said Decision and Direction on the ground that the Regional Director had erred in finding that the current collective-bargaining agreement between the Employer and the Union was terminable at will and, consequently, did not constitute a bar to the instant decertification proceeding The Board, by telegraphic order

dated January 13, 1966, granted the requests for review and stayed the election pending decision on review. Thereafter, the Employer and the Union filed briefs on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Brown and Zagoria].

The Board has considered the entire record in this case with respect to the Regional Director's determination under review, including the positions of the parties, and makes the following findings:

The Employer and the Union advanced as a bar to the petition their Supplementary Agreement which was made a part of their Label Agreement. The Regional Director concluded that the two agreements together constituted the contract here in issue and that, as the Label Agreement is subject to cancellation at any time by the unilateral action of the general executive board of the Union's International, the contract is terminable at will and, therefore, may not operate to bar the petition. The Union and the Employer contend, *inter alia*, that the Regional Director has misconstrued their intent as expressed in their contract, that the Supplementary Agreement is in itself a complete collective-bargaining agreement for a definite term, and that under their contract, properly construed, withdrawal of the right to use the Union's label would not vitiate the Supplementary Agreement. We find merit in this contention.

The Union and the Employer have a bargaining history beginning in 1955. Their most recent contract, like the five others that preceded it, consists of two documents. One is a single-page Label Agreement and the other, entitled Supplementary and Wage Agreement, is a 12-page conventional collective-bargaining agreement as to wages, hours, and conditions of employment.

The Label Agreement states that in consideration of the use of the Union's Trade Union Label, the Employer agrees to abide by the rules and conditions governing the Union, as prescribed by its International constitution, and "this Agreement." The rules and conditions prescribed by the Label Agreement, in pertinent part, are as follows:[1]

> 1.—All employees engaged in the manufacture of garments for [the Employer] shall not be less than sixteen years of age, and must be good standing members of [the Union] on or after the

[1] Other rules and conditions prescribed by this agreement or the International constitution, although not set forth herein, may also lend support to, and are not inconsistent with, our disposition of the contract bar issue herein.

thirtieth (30th) day following the date of employment or the thirtieth (30th) day following the effective date of this agreement, whichever is later. The [Employer] further agrees that during the slack season the work will be so divided that each employee will receive approximately an equal amount of work.

5. The [Employer] further agrees that [it] will not use any of said labels after notification that the privilege to use same has been withdrawn, or when said [Employer] abrogates this agreement.

9.—Should any differences arise between the firm and the employees, and which cannot be settled between them, the said differences shall be submitted to the General Officers of the U.G.W. of A. for adjustment. Should this not prove satisfactory, the subject in dispute shall be submitted to an umpire to be mutually selected for final decision.

10.—[The Employer] agrees to abide by the conditions further specified in the supplementary agreement hereto attached. This agreement is not valid unless approved of by the General executive Board of the United Garment Workers of America, who reserves the right to withdraw the use of the label at any time.

The Label Agreement states that it is to go into effect April 1, 1965, and terminate 3 years from said date, and that "It shall be automatically continued beyond said date of expiration for one year unless either party, upon sixty days' notice, elects to terminate it, or is abrogated as provided herein Section 10 [sic]."

The Supplementary Agreement recites that, "pursuant to the terms of Section 10 of the Label Agreement . . .," it is "made a part of said Label Agreement." The only other explicit references to the Label Agreement are found in articles II and IV. Article II, dealing with union security, states:

Insofar as is consistent with the laws of the State of Kansas, and in compliance with Section 1 of the Label Agreement between the parties, the following provisions shall be applicable: [there follows a typical union-shop provision duplicative of that set forth in the Label Agreement].

Article IV sets forth the grievance procedure. Step 2 provides for submission of the grievance to the International Representative. Step 3 provides:

In accordance with the provision of Section 9 of the Label Agreement between the parties any complaint or grievance which

> has not been settled satisfactorily in Step 1 or Step 2 may then be submitted to arbitration . . . .

As to duration, the Supplementary Agreement provides:

> This Agreement shall be effective from April 1, 1965, up to and including April 1, 1968, and shall automatically continue in full force and effect from year to year thereafter unless either party serves written notice on the other party at least sixty (60) days prior to April 1, 1968, or prior to any annual anniversary date thereafter, of its desire to modify or terminate this Agreement.

Under our construction of the intent of the Union and the Employer manifested in their Agreements, excerpted above, we believe it is clear that one of the several considerations provided in the Label Agreement for the grant to the Employer of the right to use the Union's label on the garments it manufactures, was the execution of the Supplementary Agreement, and that, whether or not it be viewed as a part of the Label Agreement, the Supplementary Agreement's duration and validity were to be determined by reference to its provisions alone. Therefore, as the Supplementary Agreement is by its terms a complete and valid collective-bargaining contract, with a fixed duration of 3 years, we find, contrary to the Regional Director, that it may operate as a bar herein.[2] Accordingly, we shall dismiss the petition as it is untimely with respect to the expiration date of the Supplementary Agreement.[3]

[The Board dismissed the petition.]

[2] See *Pacific Coast Association of Pulp and Paper Manufacturers*, 121 NLRB 990, 992; and *General Cable Corporation*, 139 NLRB 1123.
[3] *Leonard Wholesale Meats, Inc.*, 136 NLRB 1000.

Trinity Valley Iron and Steel Company, a Division of C. C. Griffin Manufacturing Company, Inc. ***and*** **International Molders and Foundry Workers Union of North America, AFL-CIO, Local No. 9.** *Case No. 16-CA-1256. May 16, 1966*

SUPPLEMENTAL DECISION AND ORDER

On April 27, 1960, the National Labor Relations Board issued a Decision and Order in the above-entitled case,[1] finding that Trinity Valley Iron and Steel Company, a Division of C. C. Griffin Manufac-

[1] 127 NLRB 417.