

## OPINION NO. 20

A disclosure was made to this Commission in compliance with section 12, Act 263, SLH 1967, by a department employee, which disclosure raised the question of a violation of section 8(a) of the Ethics Act.

At the employee's suggestion, the problem was discussed with his superiors in the department. The head of the department then requested an opinion of the Commission as to whether the apparent violation could be remedied by administrative action within that department. We hold that it can.

The situation is as follows. The employee is one of two inspectors for a division of the department on a neighbor island. Under the present system, the island is divided roughly in half, each inspector making the inspections necessary in his half of the island. The inspectors inspect establishments for boards and commissions within the department.

The problem arises because the employee's wife owns a business in an industry which is regulated by a board for which this employee inspects, and the business is in the employee's inspection district. He has inspected his wife's business as well as competing businesses in the area for some time.

Because the area within the employee's jurisdiction is extensive, the department head requested clarification of the limits imposed by section 8(a) upon the employee's action inspecting this type of business.

Section 8(a) of the Act provides that no employee may take official action directly affecting a business in which he has a substantial financial interest. Inspecting his wife's business for the board which regulates that industry is clearly official action directly affecting a business in which he has a substantial financial interest. Inspecting his wife's competitors' businesses, while not providing as obvious a direct effect, still is action directly affecting her business, because it regulates the existence and extent of competition.

However, in this industry, businesses in distant communities are not likely to provide competition for his wife's business. Thus the employee's inspection of businesses in distant communities would not give rise to a violation of section 8(a).

Thus, we hold that the employee may not inspect businesses in the town where his wife has her business and its immediate environs, but is not restricted from inspecting businesses in outlying areas which provide no competition for his wife's business.

The department head suggested as an administrative solution that the inspector for the other half of the island make occasional trips into the employee's area and environs to perform the inspections necessary for that area. The Commission finds the suggested solution appropriate in the circumstances to effectively eliminate the violation outlined above.

Finally, the Commission commends the employee for filing the disclosure required by the Ethics Act and for fully and freely answering our subsequent inquiries. And we are grateful to the department head for his cooperation in solving this matter. Such cooperation by those in public service alone makes possible the maintenance of high standards of ethical conduct in state government.

Dated: Honolulu, Hawaii, February 25, 1969.

STATE ETHICS COMMISSION  
Vernon F.L. Char, Chairman  
James F. Morgan, Jr., Vice Chairman  
S. Don Shimazu, Commissioner  
July Simeona, Commissioner

Note: All members of the Commission concur in this opinion. The vacancy left by Commissioner George's resignation in favor of public office has not been filled.