

1 3. The post-session lobbying financial disclosure report following adjournment
2 of the May, 2007 special session was required to be filed no later than June 14, 2007.

3 4. On June 6 and 7, 2007, the office of the Commissioner emailed a “friendly
4 reminder” to all principals, including the Society. The email advised that a post-
5 special session lobbying financial disclosure report was required to be filed no later
6 than June 14, 2007. The email noted that the form was available for download on the
7 Commissioner’s website. The email also stated that if the report was not filed by
8 the due date, a penalty of \$50 a day would begin accruing, up to a maximum penalty
9 of \$2,500.

10 5. The Society failed to file its post-special session lobbying financial disclosure
11 report on or before the due date. The Society faxed a copy of the report to the
12 Commissioner’s office on July 2, 2007, and filed a hard copy on July 3, 2007. Because
13 the report was filed twelve working days late, the civil penalty amount was \$600.

14 6. The Society requested a hearing to contest the civil penalty. A hearing was
15 held on November 8, 2007. At the hearing the Society presented the testimony of.
16 Kristen Page Nei, its Government Relations Director. Nei testified that the Society
17 inadvertently failed to file a post-special session report on time because it was not
18 aware that it was required to file a report. The Society did not engage in any
19 lobbying during either of the two special sessions held in 2007. Nei requests that
20 the civil penalty be waived because the Society did not intentionally violate the law.

21 7. During the 2007 regular session of the Montana Legislature, the Society
22 reported lobbying payments exceeding \$2,300. The Society made no further
23 lobbying payments during either of the 2007 special sessions.

24 **CONCLUSIONS OF LAW**

25 1. The Commissioner has jurisdiction over this matter pursuant to §§ 2-4-604
26 and 5-7-306, MCA.

27 2. Notice of the hearing was provided as required by law. § 2-4-601, MCA.

1 3. § 5-7-306, MCA, provides:

2 **Civil penalties for delays in filing -- option for hearing --**
3 **suspension of penalty.** (1) In addition to any other penalties or
4 remedies established by this chapter, a person who fails to file a report
5 within the time required by this chapter is subject to a civil penalty of
\$50 for each working day that the report is late until the report is filed
or until the penalties reach a maximum of \$2,500 for each late report.

6 The person against whom a penalty is assessed may request an informal contested
7 case hearing before the Commissioner. At the hearing, the Commissioner is required
8 to consider any factors or circumstances in mitigation, and may reduce or waive the
9 civil penalty. § 5-7-306(3), MCA.

10 4. § 5-7-208(2)(c), MCA, requires a lobbying disclosure report to be filed with
11 the Commissioner “no later than 30 days following adjournment of a legislative
12 session,” and the report must include “all payments made during the session, except
13 as previously reported.” If payments are not made during the reporting period, the
14 principal must file a report stating that fact. § 5-7-208(4), MCA.

15 5. The second sentence of § 5-7-208(1), MCA states:

16 A principal is subject to the reporting requirements of this section only
17 if the principal makes payments exceeding the amount specified under
5-7-112 during a calendar year.

18 6. § 5-7-112, MCA established a monetary threshold of \$2,150 for calendar
19 years 2002 through 2004. The threshold amount is adjusted according to the
20 consumer price index in the year following a general election. The adjusted
21 payment threshold for calendar years 2007 and 2008 is \$2,300. ARM 44.12.204.

22
23 **MEMORANDUM OPINION**

24 Information and testimony presented at the hearing establishes that the Society
25 registered to lobby and engaged in lobbying activities during calendar year 2007.
26 The Society’s lobbying activities and payments in 2007 exceeded the level requiring
27 registration and reporting.

1 The Society did not provide evidence establishing any factors or circumstances
2 in mitigation that would justify waiver or reduction of the civil penalty. The filing
3 deadlines for lobbying financial disclosure reports are established by statute, and
4 cannot be extended. Further, although the office of the Commissioner has no legal
5 obligation to do so, reminders are typically sent to principals before the filing
6 deadlines. I urge principals to carefully review and understand the statutory filing
7 requirements to ensure that they comply with the law, and to avoid the assessment
8 of civil penalties.

9 **ORDER**

10 THEREFORE, IT IS HEREBY ORDERED that the American Cancer Society
11 shall pay a civil penalty of \$600 to this office no later than December 28, 2007.

12 DATED this 5th day of December, 2007.

13
14 

15 _____
16 Dennis Unsworth
17 Commissioner of Political Practices

18 **NOTICE:** This is a final decision in a contested case. You have the right to seek
19 judicial review of this decision pursuant to the provisions of Mont. Code Ann. §§ 2-
20 4-701 through 2-4-711.

21 **CERTIFICATE OF SERVICE**

22 I hereby certify that I caused a true and accurate copy of the foregoing FINDINGS OF FACT,
23 CONCLUSIONS OF LAW, ORDER, AND MEMORANDUM OPINION to be mailed to:

24 Kristin Page Nei
25 Government Relations Director
26 American Cancer Society
27 3550 Mullan Road Suite 105
Missoula MT 59808

DATED: December 5th, 2007

Mary Baker
Program Supervisor