THE REAL ESTATE COUNCIL OF ALBERTA

Case:	009788
Process:	Section 39 & 83 of the *Real Estate Act*
Industry Member:	Jessica Chan
Authorization:	Real Estate Associate
Registration:	Mountain View Real Estate Inc. o/a Re/Max Real Estate (Mountain View)
Document:	ADMINISTRATIVE PENALTY
Penalty:	$1,500 (see Schedule 2 of the Bylaws)

Payment
This Penalty must be paid within 30 days of the date this Notice was issued.

If you fail to pay the Penalty the Executive Director may commence collection under Part 6 of the *Real Estate Act* and may suspend your authorization under section 38.1 of the Rules.

If you pay the Penalty
- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Jessica Hang Chan

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened section 53(a) of the *Real Estate Act* Rules and this is conduct deserving of sanction.

s. 53 A real estate associate broker and associate must:
(a) trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered;

Particulars of the contravention(s):

1. In or around November 2019 you failed to trade in real estate only in the name that appears on your licence and in the name of the brokerage with you are registered, contrary to section 53(a) of the *Real Estate Act* Rules:

a) During November 2019, you advertised your real estate services on a website. You did not indicate your brokerage name on any of the pages in the website. This was a failure to trade in the name of the brokerage you were registered with.
b) Upon RECA bringing this matter to your attention, you made changes to the pages of your website.
c) You added the brokerage name but abbreviated a portion of the brokerage name. This fails to meet the standard of trading in the brokerage you were registered with.
d) You also added your brokerage name at the bottom of each webpage. While your team branding of Jessica Chan & Associates is prominent, the brokerage name is not clearly indicated. A reasonable consumer would not be able to identify the brokerage.

Industry professionals must clearly indicate their brokerage name in all advertising. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage in an advertisement. A reasonable consumer should be able to identify the brokerage based on the advertisement alone.

RECA's definition of clearly indicated does not include specifics as to the size of font an industry professional must use for the brokerage name in advertisements as it doesn't want to hamper the creativity or uniqueness that an industry professional can use in their ads. However, the brokerage name, no matter the actual size, must be clear to consumers and not easily confused with other information (branding, team name, etc.) in the advertisement.

The Executive Director considered the following aggravating and mitigating factors:

Aggravating Factors

- There is a need for general deterrence. Consumers must be confident that a real estate professional advertising services is registered with a brokerage. Real estate professionals must clearly indicate the brokerage name in all advertising.

The Executive Director expects you to take immediate action to correct the identified advertising. Any delays must be reasonable and supported. The Executive Director will issue a more severe sanction for further similar instances of this conduct.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See section 83.1 of the *Real Estate Act* for what you must do to appeal.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by the Executive Director **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name:	AL, Professional Conduct Review Officer
Phone:	403.228.2954; Toll Free: 1.888.425.2754
Fax:	403.228.3065
Address:	Real Estate Council of Alberta Suite 202, 1506 11 Avenue SW Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on December 9, 2019.

Charles Stevenson, Acting Executive Director
of the Real Estate Council of Alberta

cc: Mountain View Real Estate Inc. o/a Re/Max Real Estate (Mountain View)