



ASIC
Australian Securities &
Investments Commission

M01682811

INFRINGEMENT NOTICE

Section 12GX of the *Australian Securities and Investments Commission Act 2001* (Cth)

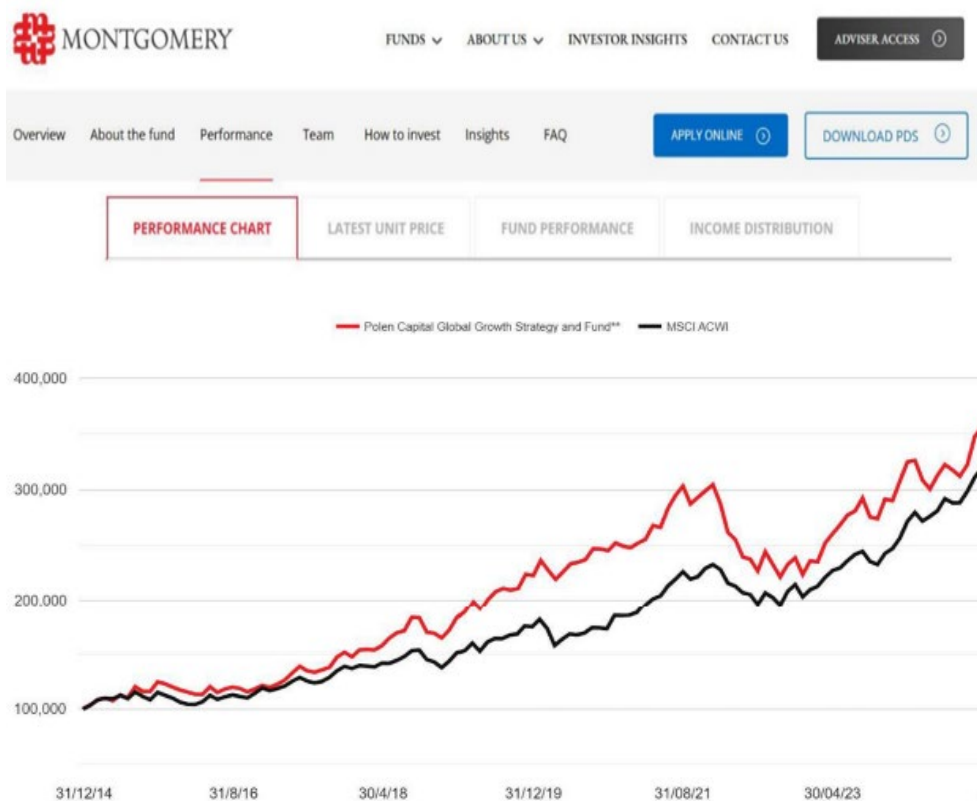
Date of giving this notice: 29 January 2026

Unique identification code: M01682811

TO: Fundhost Limited
ACN 092 517 087
Suite 1 Level 15
10-14 Spring Street
SYDNEY NSW 2000

1. ASIC gives this infringement notice under section 12GX of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).
2. ASIC has reasonable grounds to believe that Fundhost Limited (ACN 092 517 087) (**Fundhost**) has contravened an infringement notice provision by its conduct in the period 15 March 2021 to 20 February 2025 (**Relevant Period**) as follows:
 - (a) At all times during the Relevant Period:
 - i. Fundhost was the responsible entity of the Polen Capital Global Growth Fund ARSN 647 518723 (**Fund**);
 - ii. Montgomery Investment Management Pty Ltd (ACN 139 161 701) was the investment manager of the Fund (**Investment Manager**), appointed by Fundhost as its agent to invest and manage the Fund under an investment management agreement dated 22 January 2021 (**IMA**).
 - (b) The Fund's objective was to outperform the MSCI ACWI Net Total Return Index (the **Index**) over a rolling five-year period.
 - (c) At all times during the Relevant Period, the Investment Manager hosted a website relating to the Fund (**Website**) which promoted the Fund. The promotion of the Fund by the Investment Manager on the Website was conducted as an agent of Fundhost. Section 12GH(2) of the ASIC Act provides that any conduct engaged in on behalf of a body corporate by an agent within the scope of the person's actual or apparent authority, is taken, for the purposes of this Division, to have been engaged in also by the body corporate.
 - (d) The Website contained a performance chart (**Performance Chart**) which depicted the performance of the Polen Capital Focus Growth Strategy Fund (the **Strategy**) and the Fund against the Index since 31 December 2014 based on data that was updated monthly by Fundhost. The Performance Chart showed that the Strategy and the Fund outperformed the Index for most of this period and specifically since the inception of the Fund on 15 March 2021. An extract of the Performance Chart as published on the Website¹ on 20 January 2025 is reproduced below.

¹ <https://www.montinvest.com/our-funds/polen-capital-global-growth-fund> ¹ <https://www.montinvest.com/our-funds/polen-capital-global-growth-fund>



- (e) By publishing the Performance Chart on the Website, Fundhost represented that the Fund itself outperformed the Index for the Relevant Period (**the Representation**).
- (f) Contrary to the Representation, the Fund underperformed the Index for the majority of the Relevant Period.
- (g) By reason of the conduct outlined in paragraph (e) above, the Representation was false or misleading in that it conveyed the services provided by Fundhost in relation to the performance of the Fund, were of a particular standard and quality, namely that it achieved returns exceeding the Index when in fact this was not the case, in contravention of section 12DB(1)(a) of the ASIC Act.

Amount payable under this notice

3. The amount payable under this notice in relation to the alleged contravention is \$19,800. This amount can be paid using the method detailed in the covering letter accompanying this notice.
4. The payment period for the notice will be 28 days, beginning on the day after this notice is given, unless the period is extended, an arrangement is made for payment by instalments, or the notice is withdrawn.
5. Fundhost may, in writing, apply to ASIC to have the period in which to pay the amount extended or for an arrangement to pay the amount by instalments.

Consequences of paying the amount payable under this notice

6. If Fundhost pays the amount stated in this notice within the time for payment mentioned above then (unless this notice is withdrawn):
 - (a) any liability of Fundhost for the alleged contravention is discharged;
 - (b) Fundhost will not be liable to be prosecuted in a court, and proceedings seeking a pecuniary penalty order will not be brought, in relation to the alleged contravention of the infringement notice provision; and
 - (c) Fundhost will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.
7. Payment of the amount payable under this notice is not an admission of guilt or liability.

Consequences of not paying the amount payable under this notice

8. Fundhost may choose not to pay the amount specified in this notice.
9. If Fundhost does not pay the amount specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, then Fundhost may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention of the infringement notice provision.
10. The maximum pecuniary penalty that a court may order Fundhost to pay for the alleged contravention is the greatest of:
 - a) \$16,500,000; and
 - b) if the Court can determine the benefit derived and detriment avoided because of the contravention – that amount multiplied by 3; and
 - c) either:
 - i. 10% of annual turnover of the body corporate for the 12-month period ending at the end of the month in which the body corporate contravened, or began to contravene, the civil penalty provision;
 - ii. if the amount worked out under subparagraph (i) is greater than an amount equal to \$825,000,000 - \$825,000,000.

Applying for more time to pay the amount payable under this notice

11. ASIC may at its discretion extend the time to pay the amount payable under this notice if ASIC is satisfied that it is appropriate to do so.
12. If Fundhost wishes to apply for an extension of time to pay the amount specified in this notice, Fundhost must do so in writing within 28 days after the day the notice is issued (see paragraph 19).

Applying to pay the amount payable under the notice by instalment

13. ASIC may at its discretion make an arrangement for Fundhost to pay the amount payable by instalments if ASIC is satisfied that it is appropriate to do so.
14. If Fundhost wishes to apply for an arrangement to pay the amount payable under the infringement notice by instalments, Fundhost must do so in writing within 28 days after the day the notice is issued to you (see paragraph 19).

Applying to have this notice withdrawn

15. Within 28 days after the day on which this notice is given, Fundhost may apply to have this notice withdrawn by making written representations to ASIC (see paragraph 19).

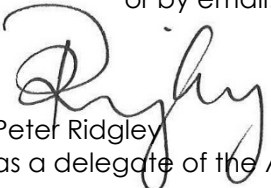
Withdrawal of this notice

16. ASIC may at its discretion, by written notice given to Fundhost, withdraw this notice if ASIC is satisfied that it is appropriate to do so, whether or not Fundhost has applied to have this notice withdrawn (**withdrawal notice**).
17. If the withdrawal notice is given after Fundhost has paid the amount specified in this notice, ASIC will refund to Fundhost the amount paid under the notice.
18. If the notice is withdrawn, then Fundhost may be prosecuted in a court, or proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention of the infringement notice provision.

Requirements for applications

19. An application to have this notice withdrawn, for more time to pay the amount payable under this notice or to pay by instalments:
- a) must be in writing;
 - b) must include the unique identification code set out at the top of this notice;
 - c) must include your reasons for making the application; and
 - d) may be made by forwarding your application to ASIC at the address in paragraph 20.
20. You may contact ASIC in relation to this notice by contacting:

Peter Ridgley
Australian Securities and Investments Commission
GPO Box 9827
MELBOURNE VIC 3001
or by email: ACLInfringementNotices@asic.gov.au;


Peter Ridgley
as a delegate of the Australian Securities and Investments Commission