

CommonWealth REIT
Form DFAN14A
February 24, 2014

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

COMMONWEALTH REIT

(Name of the Registrant as Specified In Its Charter)

CORVEX MANAGEMENT LP

KEITH MEISTER

RELATED FUND MANAGEMENT, LLC

RELATED REAL ESTATE RECOVERY FUND GP-A, LLC

Edgar Filing: Commonwealth REIT - Form DFAN14A

RELATED REAL ESTATE RECOVERY FUND GP, L.P.

RELATED REAL ESTATE RECOVERY FUND, L.P.

RRERF ACQUISITION, LLC

JEFF T. BLAU

RICHARD O TOOLE

DAVID R. JOHNSON

JAMES CORL

EDWARD GLICKMAN

PETER LINNEMAN

JIM LOZIER

KENNETH SHEA

EGI-CW HOLDINGS, L.L.C.

DAVID HELFAND

SAMUEL ZELL

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies:

- (2) Aggregate number of securities to which transaction applies:

- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

- (4) Proposed maximum aggregate value of transaction:

Edgar Filing: Commonwealth REIT - Form DFAN14A

(5) Total fee paid:

.. Fee paid previously with preliminary materials.

.. Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

The Portnoy Way:
Distorting The Truth
February 24, 2014

2
The Portnoys
Record Of Twisting The Truth
A Brief Review Of Selected Flagrant Examples

Since
announcing
our
stake
in

CommonWealth

almost
one
year
ago,
the
Portnoys
and
their
beholden
Trustees
have
continuously
twisted
the
truth
beyond
recognition

Whether
addressing
shareholders
or
other
constituencies,
the
Portnoys
have
repeatedly
demonstrated
an
extraordinary
willingness
to
shamelessly
misconstrue
simple
facts
in
what
we
believe
is
an
ongoing
effort
to
mislead
investors
and

others
into
protecting
the
Portnoy
empire

Based
on
the
deceptions
of
the
past
several
weeks
alone
as
well
as
their
unconscionable
conduct
over
the
past
year,
we
have
no
confidence
that
the
Portnoys
have
suddenly
become
more
willing
to
act
in
the
best
interest
of
shareholders

In our view no amount of rhetoric or reversible governance window dressing can redeem a 28-year track record of value destruction and governance malfeasance

The
following
pages
illustrate
classic
examples
of
the
Portnoys
most
recent
attempts
at
twisting
the
truth
to
mislead
shareholders
and
others

3
The Portnoys
Misleading Financial Analyses
The Portnoys Cherry-Pick
Timeframes To Skew CWH Stock Performance
Portnoys
Distortion
(1)

Edgar Filing: Commonwealth REIT - Form DFAN14A

By selecting 1/1/2011 as an end date for their performance comparison above, the Portnoys ignore the period of 2011 through early 2013 as if they are only accountable for performance during periods of their choosing

The
Portnoys
actions
repeatedly
demonstrate
an
aversion
to
accountability
Reality
See footnotes on p. 12.

(2)
Excludes over 2 years
of recent history
~1 year after
Corvex/Related s
initial 13-D filing
Last trading day
before
Corvex/Related s
initial 13-D filing
52%
148%
CWH
Office REIT Peers
Average
Total
Shareholder
Return
(1/1/2000 to 2/25/2013)
174%
140%
CWH
Office REIT Peers
Average
Total Shareholder Return
(1/1/2000 to 2/14/2014)
101%
97%
CWH
Office REIT Peers
Average
Total Shareholder Return
(1/1/2000 to 1/1/2011)
The Portnoys are attempting to disclaim

selected periods of underperformance, while taking credit for outperformance for which they are not responsible, but in our view there is no way to slice and dice the data in favor of the Portnoys their performance has been horrible

By selecting 2/14/2014 as an end date for their performance comparison above, the Portnoys attempt to take credit for almost a full year of stock performance that occurred after Corvex and Related filed their initial 13-D

The Portnoys appear to
shortchange S&P 500
for ~3 years of returns,
excluding returns during
12/17/86

1/2/90

4

The Portnoys
Misleading Financial Analyses

Another Astonishing Example of Portnoy Distortion

Portnoys
Distortion

(1)

Reality

1)

CommonWealth REIT Presentation to Shareholders, p. 8, 2/18/14.

Source: Bloomberg, Factset

The Portnoys show a total return for the S&P 500 from December 17, 1986 (inception date of CWH) through February

22,

2013,

that

is

factually

incorrect

and

appears

to

exclude

the

period

prior

to

January

1,

1990

Furthermore,

the

Portnoys

select

an

end

date

of

February

22,

2013,

presumably

because

they

prefer

that

shareholders overlook the massively dilutive equity offering they announced on the next trading day, February 25,

2013,

which

drove

CWH s

stock
price
down
12.1%
in a single day

Even if February 22 were an appropriate end date, the Portnoys appear to miscalculate CWH's total return by an additional 103 percentage points, for a total misstatement of over 200 percentage points

Last trading day
before

Corvex/Related's
initial 13-D filing

The Portnoys selected as an
end date the last trading day
before

the announcement of
their massively dilutive equity
offering which **drove the**
stock down 12%

Total Shareholder Return
(CWH's Inception on 12/17/1986 to 2/25/2013)

Total Shareholder Return
(CWH's Inception on 12/17/1986 to 2/22/2013)
877%

592%
CWH

S&P 500 Index
668%

992%
CWH

S&P 500 Index

While we question the analytical value of comparing an office REIT with the S&P 500 rather than its office peers over the extended period in question, we believe the deceptiveness of the Portnoys' analysis is particularly appalling

In
a
letter
dated
January
21,
2014,
we
asked
the

Portnoys,
among
other
things,
if
they
would
commit to amend Commonwealth's charter to ensure that the Board cannot opt back into
Section
3-803
of
the
Maryland
General
Corporation
Law
which
allows
them
to
unilaterally
re-
stagger the Board

The Portnoys never answered this simple question in any transparent way
But in a recent interview with REIT Wrap, Adam Portnoy was finally pressed by a reporter to
answer the question, and he answered as we expected:
The Portnoys Make Misleading Claims About Their
Governance Alterations

During a recent telephone interview with CWH's Adam Portnoy, we asked whether
CWH
was
willing
to
permanently
opt
out
of
MUTA
pledging

that
it
wouldn't
attempt
to re-stagger its board without prior stockholder approval. Adam Portnoy explained
that CWH wasn't taking that step because the Company didn't want to tie directors
hands. Without that commitment, we added, the decision to de-stagger was window
dressing. Portnoy didn't agree with that characterization and he again pressed his
point that CWH was unwilling to tie directors hands.

REIT Wrap, February 7, 2014

Edgar Filing: Commonwealth REIT - Form DFAN14A

The Portnoys have made misleading claims that they are making meaningful governance changes including the de-staggering of the Board at CWH

5

Under the pretense of not wanting to tie directors hands, the Portnoys will make sure that any governance change they make including declassifying the Board is not permanent, and can be unilaterally reversed at any time by the Portnoys beholden Trustees

6

On April 4, 2013, it first came to our attention that Barry Portnoy and RMR had hired a lobbying firm in Annapolis, MD and had secretly been

lobbying
selected
members
of
the
Maryland
General
Assembly to introduce a last minute change to a pending Senate bill which would allow the
CommonWealth
board
to
effectively
unilaterally
remove
the
without
cause
removal
provision
from
its charter

Barry Portnoy, with the assistance of CommonWealth's conflicted Maryland counsel,
mischaracterized
the
amendment
to
Assemblymen
as
a
clarification
of
existing
law.

A hearing was held by the Senate Judicial Proceedings Committee on the Portnoy amendment on
April 5, 2013, one day after we first learned of RMR's lobbying efforts. At the hearing a number of
Senators recognized the RMR-sponsored amendment for what it was: a change in Maryland law,
not a clarification

Despite their legislative defeat, on April 12, 2013, CommonWealth opted-in to
Section
3-803
of
the
Maryland
Unsolicited
Takeovers
Act

the
same
statute
that
they
had
just
failed
to
clarify

and,
in
Commonwealth's
view,
by
doing
so
eliminated
the
right
of
Commonwealth
shareholders to remove Trustees without cause

In
its
November
2013
ruling,
the
Arbitration
Panel
agreed
with
us:

According
to
CWH's
Declaration
of
Trust,
the
Trustees
can
be
removed
at
any

time
with
or
without
cause by two-thirds of the shareholders. The Panel concludes that CWH's election to
opt
into
Section
3-803
of
MUTA
does
not
alter
the
CWH
shareholders
explicit
ability
under
the
Declaration of Trust to remove Trustees without cause.
The Portnoys
Misleading Legislative Clarification

7
The Portnoys Lecture Us On Conflicts Of Interest
FALSE
REALITY
Peter
Linneman
had
no
conflict
of

interest

1)

Page 36 of presentation filed by CWH on 2/18/14.

In their February 18 presentation to shareholders, the Portnoys misrepresent Peter Linneman's actions as Chairman of Rockefeller Center Property (RCP) during its mid-1990's sale to an investor group that included Goldman, Sachs & Company

The Portnoys state . . . Linneman had outside relationships with some of the bidders for RCP, including Goldman Sachs. . .

(1)

There were hundreds of entities that would have made at the time annual

donations to Wharton of between \$1,000 and \$5,000

Dr. Linneman fully disclosed his role at Wharton to all RCP directors and counsel, who deemed that this role posed no conflict

How much trust should be placed in the Portnoys views on conflicts of interest?

I'm on both boards and I can say there is no conflict of interest

Adam Portnoy

denying that there is a conflict of interest between RMR and Commonwealth

Whose Commonwealth

Is

It

Anyway?
Barron's,
April
20,
2013

Dr. Linneman did not have any relationships with Goldman Sachs or other bidders at the time of the RCP sale. CommonWealth's unsubstantiated accusation appears to be loosely based on a 1996 press article, which speculates on an unsupported basis that as a director of the Wharton School's Real Estate Center

Dr.
Linneman
was
in
a
position
to
ask
for
donations
from
bidding
entities
such
as
Goldman
Sachs

8
The Portnoys
Own Actions Contradict Their Claims In Real Time
Portnoys
Distortion

Senior Housing Properties Trust (SNH), another Portnoy externally-managed REIT, made the same changes to its RMR business management agreement that CWH did

However, less than two weeks ago, the Portnoys directed SNH to agree to a \$1.1 billion acquisition, increasing the size of SNH by nearly 20%, but only increasing AFFO per share by an estimated 2-3% (1), creating virtually no incremental value for shareholders, in our view

However, the increased fee streams to RMR raise SNH's G&A by an estimated 24% (1) in 2014, despite there being virtually no incremental cost associated with

asset/property
management
oversight
due
to
the
triple-net
nature
of
the
96%
leased
building

As a result, the Portnoys have secured a minimum of
approximately
\$115
million
in
fees
over
the
life
of
the
15-
year lease on the building
Reality

The Portnoys claim that changes in the
terms of RMR's management agreements
further align the interests of management
with shareholders

CommonWealth REIT Presentation to
Shareholders, p. 43, February 18, 2014

We believe SNH's planned acquisition of a \$1.1 billion Boston life science complex
highlights problematic issues with regard to its external management structure. We
see SNH shares moving to a substantial discount to underlying NAV, as the market
assigns a greater discount for a corporate structure that utilizes an external manager
whose interests can conflict with those of SNH's shareholders. We are cutting our
price target to \$19 from \$22 and downgrading our rating to Sell from Neutral.

-
UBS, Senior Housing Properties Trust, Downgrade to Sell,
February 11, 2014

1)
UBS,
Senior
Housing
Properties
Trust,

Downgrade
to
Sell,
2/11/14.

9

The Portnoys Omit Key Facts

Portnoys

Distortion

CWH only repurchased \$14.5 million of stock
from its 2009 buyback program

CWH has repeatedly issued equity at substantial

discounts to book value primarily for the purpose of increasing the size of the Company and therefore RMR's fees, in our view

The RMR management contract is terminable without penalty upon 60 days notice
Reality

CWH has repurchased stock when its share price was low and issued stock when its share price was higher. CWH announces \$100 million share buyback program [on January 9, 2009]
CommonWealth REIT Presentation to Shareholders, p. 22, February 18, 2014

CWH did not internalize management in the past because the Board and management did not think it was in the best interests of shareholders to have CWH pay an internalization

fee
to
RMR
and
also
have
higher costs at CWH as a result.
CommonWealth REIT Presentation to Shareholders, p. 28, February 18, 2014
By omitting key facts, the Portnoys make highly misleading claims

10
The Portnoys
Misdirected Critiques Of Our Slate of Nominees
Portnoy Complaint
Barry
Portnoy
Adam
Portnoy
Hospitality Properties Trust
Senior Housing Properties Trust

Five Star Quality Care, Inc.
RMR Real Estate Income Fund
TravelCenters of America LLC
Government Properties Income Trust
Select Income REIT
CommonWealth REIT

Barry
Portnoy
is
on

EIGHT
boards
Adam

Portnoy
is
on

SIX
boards

The Portnoys have criticized the Corvex/Related nominees, but upon closer evaluation,
their
criticisms

more
aptly
apply

to
themselves

Adam Portnoy's track record as President of CWH

(1)

(2)

39% Decline!

* Page 10 of presentation filed by CWH on 2/18/14.

Portnoy Actions

\$25.80

\$15.85

\$0.00

\$10.00

\$20.00

\$30.00

1/10/2011

2/25/2013

(1)

(2)

Adam Portnoy appointed President of CWH.

Last trading day before Corvex/Related filed their initial 13D.

11

Portnoy Complaint
William A. Lamkin

Serves on the Board of HPT and SIR,
both of which are Portnoy managed REITs and in the
aggregate paid RMR over \$175 million in fees from 2008-
2012 and \$587,580 in total compensation to Mr.
Lamkin.
Joseph Morea

While
Mr.
Morea
was
at
RBC,
RBC
received tens of millions of fees from CWH and other
RMR-managed entities. Last year, at a meeting he
attended
with
us,
Mr.
Morea,
as
the
only
so-called
independent
trustee at the meeting, acknowledged that
the CWH board operates without walls or delineations
between the independent and the managing trustees. We
believe him.
Reinstated as Trustee after receiving the vote of only 14%
of the outstanding shares at the 2013 annual meeting
Frederick Zeytoonjian

Serves
on
the
Board
of
SNH,
another Portnoy managed REIT. From 2008-2012, SNH
paid \$106 million in fees to RMR and \$446,980 in total
compensation to Mr.
Zeytoonjian.
Portnoys
Beholden Trustees
The Portnoys
Misdirected Critiques Of Our Slate of Nominees
The Portnoys
criticisms of our nominees are better descriptors of the CWH
Trustees
* Page 10 of presentation filed by CWH on 2/18/14.
NO non-Portnoy public Board experience
NO other public Board experience
NO non-Portnoy public Board experience

Footnotes

12

Footnotes to page 3

Note: For comparability purposes we use the same peer set described in CWH's Presentation to Shareholders of 2/18/14: BD but we exclude PDM as PDM did not go public until 2/9/10. Peer Average represents a simple average.

1)

Charts re-created from Commonwealth REIT Presentation to Shareholders, p. 6, 2/18/14.

2)

2/25/13 is the last trading day before Corvex and Related filed their initial 13-D.

Source: Factset

13
Disclaimer
This
presentation
does
not
constitute
either
an
offer

to
sell
or
a
solicitation
of
an
offer
to
buy
any
interest
in
any
fund
associated
with
Corvex

Management LP (Corvex) or Related Fund Management, LLC (Related). Any such offer would only be made at the time the Company receives a confidential offering memorandum and related subscription documentation.

The information in this presentation is based on publicly available information about Commonwealth REIT (the Company). This presentation includes certain forward-looking statements, estimates and projections prepared with respect to, among other things, general economic market conditions, changes in management, changes in the composition of the Company's Board of Trustees, actions of the Company and its subsidiaries

or
competitors,
and
the
ability
to
implement
business
strategies
and
plans
and
pursue
business
opportunities.

Such forward-looking statements, estimates, and projections reflect various assumptions concerning anticipated results that are inherently subject to significant uncertainties and contingencies and have been included solely for illustrative purposes, including those risks and uncertainties detailed in the Company's annual report on Form 10-K and in the Company's quarterly reports on Form 10-Q and in other

filings
of
the
Company,
copies
of
which
are
available
on
the
U.S.

Securities
and
Exchange
Commission
website
at
www.sec.gov/edgar.

No
representations,
express
or
implied,
are
made
as
to
the
accuracy
or
completeness
of
such

forward-looking statements, estimates or projections or with respect to any other materials herein. Corvex and Related may but otherwise

change
the
form
of
their
investment
in
the
Company
for
any
reason
at
any

time,
without
notice,
and
there
can
be
no
assurances
that
they will take any of the actions described in this document. Corvex and Related disclaim any duty to provide any updates or analyses contained in this document, except as may be required by law. Shareholders and others should conduct their own independent investigation and analysis of the Company.
Except where otherwise indicated, the information in this document speaks only as of the date set forth on the cover page. Permission to quote third party reports in this presentation has been neither sought nor obtained.
Additional Information Regarding the Solicitation
Corvex
Management
LP
and
Related
Fund
Management,
LLC
have
filed
a
definitive
solicitation
statement

and
a
description
of
their
direct
and
indirect
interests,
by
security
holdings
or
otherwise,
to
the
extent
applicable,
is

available in the definitive solicitation statement filed with the SEC on January 28, 2014 and Supplement No. 1 thereto filed on 2014.