

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**

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Check the appropriate box:

Preliminary Proxy Statement

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Definitive Proxy Statement

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**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**

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**RELATED REAL ESTATE RECOVERY FUND GP, L.P.**

**RELATED REAL ESTATE RECOVERY FUND, L.P.**

**RRERF ACQUISITION, LLC**

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**RICHARD O TOOLE**

**DAVID R. JOHNSON**

**JAMES CORL**

**EDWARD GLICKMAN**

**PETER LINNEMAN**

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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)

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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



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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  
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not  
constitute  
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an  
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to  
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of  
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to  
buy  
any  
interest  
in  
any  
fund  
associated  
with  
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competitors,  
and  
the  
ability  
to  
implement  
business  
strategies  
and  
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and  
pursue  
business  
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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.