

CommonWealth REIT
Form DFAN14A
December 18, 2013

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

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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

(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:

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(1) Amount Previously Paid:

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

(3) Filing Party:

(4) Date Filed:

The Case for Change Now at CWH
Update on Recent Events
December 18, 2013

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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
a
qualified
offeree
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
document
includes
certain
forward-looking
statements,
estimates
and
projections
prepared
with
respect
to,
among
other
things,
general
economic
and
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
continuous
disclosure
and
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
buy,
sell,
cover
or
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
changes
to
the
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
Consent
Solicitation
In
connection
with
their
solicitation,
Corvex
and
Related
have
filed
a
preliminary
solicitation
statement
with

the
U.S.
Securities
and
Exchange
Commission
(the
SEC)
to
(1)
solicit
written
consents
from
shareholders
of
the
Company
to
remove
the
entire
board
of
trustees
of
the
Company
(the
Removal
Proposal)
and
(2)
solicit
proxies
to
elect
five
new
trustees
at
a
special
meeting
of
shareholders
that
must
be
promptly

called
in
the
event
that
the
Removal
Proposal
is
successful.
Investors
and
security
holders
are
urged
to
read
the
definitive
written
consent
solicitation
statement
and
other
relevant
documents
when
they
become
available,
because
they
contain
important
information
regarding
the
consent
solicitation.
The
preliminary
and
definitive
solicitation
statement
and
all
other

relevant
documents
will
be
available,
free
of
charge,
on
the
SEC's
website
at
www.sec.gov.
The
following
persons
are
participants
in
the
solicitation
of
the
Company's
shareholders:
Corvex
Management
LP,
Keith
Meister,
Related
Fund
Management,
LLC,
Related
Real
Estate
Recovery
Fund
GP-A,
LLC,
Related
Real
Estate
Recovery
Fund
GP,
L.P.,
Related

Real
Estate
Recovery
Fund,
L.P.,
RRERF
Acquisition,
LLC,
Jeff
T.
Blau,
Richard
O Toole
and
David
R.
Johnson.
Information
regarding
the
participants
in
the
solicitation
and
a
description
of
their
direct
and
indirect
interests,
by
security
holdings
or
otherwise,
to
the
extent
applicable,
is
available
in
the
preliminary
solicitation
statement
filed

with
the
SEC
on
December
3,
2013.

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Agenda

CommonWealth REIT

Update on recent events

CWH corporate governance discussion

Side-by-side comparison of CWH and Corvex/Related governance proposals

Update on Strategic Plan

We appreciate this opportunity to meet with you and provide an update on CommonWealth (CWH

or the Company)

4
Update on Recent Events
The Arbitration Panel Has Spoken
On
November
18,
2013,
the
Arbitration
Panel

(Panel)

issued
an
award
that
ruled
in
our
favor
on
virtually
all
of
our
requests,
striking
down
the
illegal
bylaws
that
stripped
shareholders
of
their
right
to
vote
through
a
consent
solicitation
We
were
further
vindicated
when
the
Panel
also
ordered
a
clearly
defined
set
of
procedures
for
a
new

consent
solicitation
and:
After
two
weeks
of
live
testimony
and
reviewing
hundreds
of
exhibits,
we
believe
the
Panel
plainly
agreed
with
our
view
that
the
Portnoys
are
highly
incentivized
and
capable
of
continuing
their
campaign
of
shareholder
disenfranchisement
Prohibited
any
action
intended
to
impede
or
frustrate
the
new
solicitation,
and

Declared
it
would
remain
available
to
resolve
any
issues
or
disputes
in
the
new
consent
solicitation

-

Arbitration Panel, November 18, 2013

There is no question that CWH's Bylaws erect a complex wall of procedural hurdles to any consent solicitation.

5

Update on Recent Events

The Arbitration Panel Has Spoken

Contested Bylaws

3%/3yr holding requirement to request a record date

All shares must be held in certificated form to request
a record date

30 day period to respond to a record date request

60 day period to set a record date

90 day period to certify the results of the consent

solicitation

Selected details of the November 18 Arbitration Panel ruling:

Ruling

INVALID AS A MATTER OF LAW

INVALID AS A MATTER OF LAW

INVALID AS A MATTER OF LAW

INVALID AS A MATTER OF LAW

INVALID AS A MATTER OF LAW

The Panel also ruled that:

Corvex/Related

had

satisfied

onerous

red

tape

bylaw

requirements

Opting

into

Section

3-803

of

the

Maryland

Unsolicited

Takeovers

Act

(MUTA)

does

not

revoke

the

right

of

shareholders

to

remove

Trustees

without

cause,

as

claimed

by

the

Portnoys

Clearly

highlights

the

Portnoys
motivation
for
secretly
lobbying
the
Maryland
legislature
to
amend
this
law
under
the
guise
of
a
clarification

6

Update on Recent Events

The Arbitration Panel Has Spoken

The Trustees

misconduct over the past year is startling:

Approved a massively dilutive equity offering,

Passed unprecedented, illegal bylaw amendments,

Lobbied to amend Maryland law under the cover of darkness, and

Wasted over \$30 million of shareholder money on year-long litigation process

In our view, the Trustees accomplished nothing

But
their
actions
say
more
about
their
true
intentions
than
their
promises
ever
can
We
and
the
Company
are
in
the
same
position
we
would
be
in
to
begin
with
had
the
Portnoys
simply
allowed
for
the
shareholder
vote
that
was
granted
to
shareholders
in
the
Company's
Declaration
of

Trust
27
years
ago
The
Panel
recognized
that
shareholders
have
the
right
to
vote
in
a
consent
solicitation
to
remove
Trustees
without
cause
at
any
time
The
Panel
has
implemented
a
clearly
defined
set
of
procedures
to
hold
a
new
consent solicitation
These
actions
were
taken
to
prevent
shareholders
from
simply

holding

a

vote,

but

what

did

they

accomplish?

Shareholders are finally poised to take back CommonWealth and decide its future

7
CommonWealth Corporate Governance Discussion
The Accountability Vacuum and Underperformance
Some
of
the
extraordinary
powers
the
Portnoys

and
their
hand-picked
board
members
have
include
the
ability
to:
As
a
result,
RMR
is
held
accountable
by
no
one
and,
in
our
view,
enjoys
complete
immunity
from
shareholders
Given
the
Accountability
Vacuum ,
it
is
no
wonder
CWH
shares
have
underperformed
its
peers
by
such
a
wide
margin
for
so

long
In
our
opinion,
rampant
conflicts
create
an
Accountability
Vacuum
at
CWH;
and
underperformance
thrives
in
an
Accountability
Vacuum
We
believe
that,
by
definition,
there
can
be
no
accountability
when
a
manager
controls
its
own
employer

Purportedly
require
that
two
RMR
employees
always
be
on
the
five-member
board,
even

though
RMR
owns
virtually
no
equity
in
CWH
and
in
our
opinion
have
incentives
diametrically
opposed
to
those
of
shareholders

Exclusively amend the bylaws while shareholders cannot

Unilaterally stagger the board under MUTA, without shareholder approval

Require
a
shareholder
vote
of
75%
in
order
to
pass
proposals
not
recommended
by
the
Trustees

Reinstate hand-picked Trustees who fail to be re-elected by shareholders

8

CommonWealth Corporate Governance Discussion

But the Conflicts of Interest at CWH Underlie Another Basic Truth

We believe the Portnoys harbor a deep commitment to protecting its Perpetual
Fee Streams

and will attempt to mislead shareholders with Check-the-Box
reform rather than true accountability

Given

the

staggering

value
of
its
Perpetual
Fee
Streams ,
we
believe
the
Portnoys
will
always
choose
Check-the-Box
corporate
governance
reform,
rather
than
voluntarily
agree
to
true
accountability
RMR s
business
model,
in
our
view,
is
founded
on
creating
and
preserving
the
conflict
of
interest
at
its
externally
managed
REITs
in
order
to
manufacture
Perpetual

Fee
Streams ,
regardless
of
the
impact
on
CWH s
share
price
In
our
opinion,
the
profits
from
RMR s
Perpetual
Fee
Streams
could
be
valued
at
~20x
cash
flow
(but
for
the
ability
of
the
Board
to
terminate
RMR
management
contracts),
given
the
highly
recurring
and
practically
infinite,
growing
nature
of
the

cash
flow
streams
under
the
protection
of
the

Accountability
Vacuum

The Portnoys own 100% of RMR

9

Commonwealth Corporate Governance Discussion

The Portnoys

Governance Proposals Are A Case Study in Check-the-Box

After

the

countless

tactics

it

has

employed
over
the
past
year,
would
the
Portnoys
really
now
implement
meaningful
corporate
governance
enhancements
and
subject
themselves
to
true
accountability
knowing
full
well
they
have
severely
underperformed
for
years?
Would
they
really
put
at
risk
their
invaluable
Perpetual
Fee
Stream ?
Is
it
appropriate
for
Joseph
Morea,
a
Trustee
who

was
reinstated
after
receiving
the
vote
of
only
14%
of
the
outstanding
shares,
to
be
spearheading
corporate
governance
reform?
What
impact
might
losing
the
consent
solicitation
have
on
the
Portnoys
other,
much
larger
and
more
lucrative
externally
managed
REITs?
Are
the
Portnoys
aware
that
they
may
only
need
to
propose

misleading

Check-the-Box

governance

changes

just

to

win

votes

from

some

shareholders

and

remain

in

power

with

zero

real

improvement

in

corporate

governance

or

accountability?

On

the

following

pages,

we

review

and

highlight

the

realities

of

the

Portnoys

Check-the-Box

governance

proposals

from

September

23,

2013,

and

compare

them

to

Corvex/Related s

proposals

which
would
effect
tangible
change
on
CWH's
governance
The
Portnoys
Check-the-Box
proposals
create
the
illusion
of
reform,
but
bring
zero
incremental
accountability
Questions
shareholders
should
ask
themselves
while
conducting
such
a
review:

10
The Portnoys
Corporate Governance Proposals
Why It's All Smoke and Mirrors
Reality
Our Proposal
Annual Elections

Requires

a
total
of
four
annual
meetings
with
a
full
de-staggering
not
taking
place
until
May
2017

Remaining
Trustees
are
still
empowered
to
reinstate
a
trustee,
such
as
Joseph
Morea,
who
was
not
re-elected
but
reinstated
earlier
this
year

Bylaws
still
require
two
Managing
Trustees
to
be
employees
of

RMR

Current
Managing
Trustees
are
in
our
opinion
responsible
for
the
poor
state
of
CWH

MUTA
allows
RMR
to
unilaterally
re-
stagger
its
board
at
any
time

The
Portnoys
refuse
to
answer
whether
they
will
insist
on
impossible
procedural
requirements
to
nominate
Trustees,
including
twice-rejected
3%/3-year
rule

Does
not
clarify
when
they
deem
current
disputes
to
be
resolved
or
whether
future
disputes
with
other
shareholders
will
also
delay
implementation
of
their
proposals
Portnoys
Proposal
Annual
election
of
Trustees
will
begin
in
2015
following
a
shareholder
vote
at
the
2014
Annual
Meeting
and
resolution
of
the
pending

disputes
with
Corvex/Related
Annual
Elections
at
the
next
(2014)
Annual
Meeting

11
The Portnoys
Corporate Governance Proposals
Why It's All Smoke and Mirrors (cont.)
Reality
Our Proposal
Board Composition

New
Trustees

to
be
nominated
by
a
committee
of
current
Trustees,
while
shareholders
continue
to
be
burdened
by
a
nearly
impossible
nomination
process

We
believe
the
Portnoys
have
already
revealed
their
true
intentions
by
refusing
to
answer
simple
questions
regarding
the
nomination
process
for
the
2014
Annual
Meeting

In
our

opinion,
the
Portnoys
definition
of
independent
trustee
does
not
conform
to
any
respected
definition
of
the
term,
nor
does
their
27-year
history
convince
us
that
New
Trustees
will
be
truly
independent

With no material changes to
corporate
governance,
new
Trustees
will
be
no
more
accountable
to
shareholders
than
current
Trustees
Portnoys
Proposal

Size
of
board
is
to
be
increased
such
that
the
ratio
of
independent
Trustees
to
total
Trustees
will
increase
from
the
current
60%
to
at
least
75%,
(i.e.
three
new
Trustees)

Lead
independent
trustee
will
be
designated
after
the
new
Trustees
join
the
board

Existing
Managing
Trustees
will

remain

Any
shareholder
can
nominate
or
bring
business
at
an
annual
meeting
(regardless
of
level
of
ownership
or
holding
period)

No
preferential
treatment
for
RMR
(which
currently
gets
two
board
seats
with
virtually
no
equity
interest
in
CWH)

No
requirement
that
nominating
shareholder
owns
ALL
shares in
record

certificated form

Plurality
vote
for
contested
elections

12
The Portnoys
Corporate Governance Proposals
Why It's All Smoke and Mirrors (cont.)
Reality
Our Proposal
RMR Management Agreement

Continues
to

primarily
incentivize
RMR
to
grow
assets
at
the
expense
of
shareholders
when
the
company
resumes
equity
issuance

Fees
still
structured
to
maintain
downside
protection
for
RMR
while
providing
upside
as
assets
grow

Incentive
Fee
benchmarks
are
to
be
determined
by
the
same
board
that
reinstated
a
trustee
who

only
received
support
from
14%
of
the
outstanding
shares
annually
and
can
therefore
be
manipulated

Stock
component
is
not
meaningful

CWH
will
still
be
externally
advised
by
a
conflicted
outside
party
that
is
not
subject
to
accountability
by
its
shareholders
and
owns
virtually
no
stock
in
the
Company

Portnoys
Proposal

Beginning
in
2014,
base
business
management
fee
to
be
based
on
the
lower
of:
(i)
gross
historical
cost
of
real
estate
assets
or
(ii)
CWH's
total
market
capitalization

10%
of
base
business
management
fees
will
be
paid
in
stock

Annual
incentive
fees
will
be
based

upon
total
returns
realized
by
shareholders
(i.e.,
appreciation
plus
dividends)
in
excess
of
benchmarks
Truly
independent
board
of
Trustees
will:

Form
an
independent
compensation
committee

Retain
independent
outside advisors

Set
compensation
policy
to
properly
align
incentives
with
shareholder
returns
in
accordance
with
industry-accepted
benchmarks

13
The Portnoys
Corporate Governance Proposals
Why It's All Smoke and Mirrors (cont.)
Reality
Our Proposal
Poison Pill

Company
will

continue
to
have
a
poison
pill
built
into
its
charter
and
bylaws
that
prohibit
stock
acquisitions
over
9.8
percent

Still
no
response
to
our
letter
request
for
a
waiver
despite
resolution
of
disputes
by
the
Arbitration
Panel

Company
can
always
unilaterally
implement
a
new
poison
pill
overnight
without

shareholder
approval

Does
not
clarify
when
they
deem
current
disputes
to
be
resolved
or
whether
future
disputes
with
other
shareholders
will
also
delay
implementation
of
their
proposals
Portnoys
Proposal

Waiver
for
shareholders
who
demonstrate
no
threat
to
REIT
tax
status

No
new
poison
pills
without
a
shareholder

vote
Expiration
of
poison
pill
to
be
accelerated
from
October
17,
2014
to
a
date
soon
after
resolution
of
the
pending
disputes
with
Corvex/Related

14
The Portnoys Continue to Show Their True Intentions
The 2014 Annual Meeting
On
December
6,
2013,
after
the
November

18
Panel
ruling,
we
wrote
a
letter
to
the
board
requesting
formal
clarification
of
the
procedures
for
nominating
directors
at
the
2014
Annual
Meeting,
and
inquired
as
to
the
following:
Will
nominating
shareholders
be
required
to
comply
with
the
3%/3-year
requirement
that
the
Arbitration
Panel
decisively
struck
down
on
two

separate
occasions?
Will
nominating
shareholders
be
required
to
comply
with
unreasonable
information
requirements
such
as
presenting
all
of
their
shares
in
certificated
form?
Will
the
board
insist
that
two
members
of
the
five-member
board
must
be
RMR
employees
thereby
limiting
the
board
seats
up
for
election
in
2014
to
just

one
seat?
Shouldn't
the
answer
to
each
question
be
an
obvious
no
in
light
of
both
the
Panel's
November
18
ruling
as
well
as
the
Portnoys
purported
claim
to
understand
the
views
of
shareholders
and
make
meaningful
governance
changes?
Would
shareholders
find
themselves
in
a
repeat
of
the
events
of

the
past
year
if
they
were
to
attempt
to
nominate
directors

at
the
2014
Annual
Meeting?

In the past year, the existence of the Silent Bylaw
at CWH has been revealed:
shareholders must expend exorbitant sums to litigate against the
current

Trustees in order to exercise their fundamental right to vote

Why
not
simply
seek
minority
board
representation

at
the
Annual
Meeting?

Regrettably,
the
Trustees
refused

to
answer
these
simple
questions

15

The Portnoys Continue to Show Their True Intentions

Inescapable Conclusions from the Portnoys

Actions

The

Portnoys

have

not

demonstrated

a

genuine
interest
in
true
governance
reform
and
remarkably
continue,
to
this
day,
to
generate
evidence
to
the
contrary
We
also
have
little
faith
that
that
the
Portnoys
have
turned
over
a
new
leaf
The
Board s
supposed
gradual
journey
down
the
winding
road
to
true
governance
reform
is
a
red
herring,

in
our
view
designed
to
mislead
shareholders

into
voting
for
them
in
the
upcoming
consent
solicitation

We believe what drives the Portnoys
actions is that they view control of CWH
as binary, either they have dominant control or they do not

In
other
words,
either
the
Perpetual

Fee
Stream
built
over
the
past

27
years
is
secure,
or
it
is
not

In our view: the Portnoys
governance proposals are not real,
the Portnoys
intentions are not genuine,
and
the
board
has
demonstrated
once
again,

with
actions
taken
as
recently
as
last
week,
the
basic
truth
at
CWH:
Perpetual
Fee
Streams
are
a
powerful
motivator for dodging accountability
We
do
not
believe
that,
at
the
2014
Annual
Meeting
and
at
Annual
Meetings
to
follow,
shareholders
will
be
afforded
a
fair
and
unfettered
election
process

16

The Portnoys Continue to Show Their True Intentions

Inescapable Conclusions from the Portnoys

Actions (cont.)

Underperformance

as

undisputedly

poor

as

it

is
at
CWH
is
rare
Existing
governance
policies
as
egregious
as
they
are
at
CWH
is
rare
How often do ISS and Glass Lewis support removal of an entire board?
Entrenchment
tactics
(e.g.,
secretly
lobbying
to
amend
the
law)
as
appalling
as
they
are
at
CWH is rare
In
how
many
other
instances
has
a
shareholder
been
forced
to
expend
exorbitant
sums
in
order

to
exercise a right plainly written in the company's charter for 27 years?
Traditional channel of change via minority board representation highly unlikely to succeed
Management
actions
from
as
recently
as
last
week
belie
turned
leaf
intentions,
implying
another
contentious
battle
would
be
likely
at
the
Annual
Meeting

the
Silent
Bylaw
Perpetual
Fee
Streams
a
powerful
incentive
to
maintain
Accountability
Vacuum
In
the
meantime,
shareholders
will
likely
continue
suffering
from
the

same
operating,
strategic
planning,
and
share
price
underperformance
under
the
same
management

team
that

has
plagued

CWH for years

We believe the negative outcome of pursuing the traditional channel of change is already
knowable given the Portnoys
long-term history and their most recent actions

While

the
removal
of

an
entire
board

is
not

a
decision

to
be
taken
lightly,

the
case for removal could not be easier to make than it is at CWH

17
Corvex/Related s True Intentions
Track Record Provides Compelling Insight
Out
of
all
the
investments
in
public

companies
Corvex
made
since
inception,
including
the
8
in
which
13-D s
were
filed,
none
have
resulted
in
a
proxy
battle,
litigation,
or
even
a
public
dispute,
with
the
exception
of
CWH
On
the
other
hand,
none
of
the
companies
in
which
Corvex
has
ever
invested
has
attempted
to
take
away

a
shareholder
right
that
is
plainly
written
into
its
charter
The
share
prices
of
the
companies
as
to
which
Corvex
filed
13-D s
have
on
average
experienced
substantial
appreciation
during
the
period
of
Corvex s
involvement
Corvex
prefers
constructive
engagement
Related s
core
business
lies
in
real
estate
investment
and
operations
and
it

has
never
previously
engaged
in

a
hostile

proxy
battle

Related

prefers

constructive

engagement

Corvex and Related prefer constructive engagement, but as shareholders must
insist on true accountability and genuine corporate governance reform

Corvex

has

no

history

of

hostile

proxy

battles

or

litigation

with

companies

in

its

portfolio

and,

instead,

works

collaboratively

with

management

to

create

value

18
Corvex/Related s Strategic Plan
Key Tenets of Plan Will Create Substantial Value
The
fair
and
unfettered
election
of
a

new
board
consisting
solely
of
truly
independent
Trustees

New board to have experience overseeing an internally managed public REIT

We welcome and are actively seeking out candidates from other large shareholders
Best-in-Class corporate governance to fill the Accountability Vacuum

Amend
existing
Declaration

of
Trust
and
bylaws
to
conform

to
ISS
and
Glass
Lewis
best
practices

Internalize management and align management compensation with shareholder returns

Right the ship
with basic operating strategies

We
believe
proper
staffing
levels
and
reinvestment
in

CWH's
existing
portfolio
can
harvest

a
substantial amount of low hanging fruit
No poison pill

Adoption of a policy against new pills without shareholder approval

Cease

all

acquisition

activity

and

dilutive

capital

raises

until

stock

price

exceeds

its

NAV

Cease

all

related

party

transactions

not

approved

by

a

vote

of

disinterested

shareholders

Corvex and Related continue to propose the following Strategic Plan:

Although dramatically different from CWH's existing plan, the implementation of these principals will simply make CWH look like virtually every other member of the S&P 500

19

Corvex/Related s Strategic Plan

Our Key Principals of Best-in-Class Corporate Governance

Annual elections for all Trustees beginning at the next Annual Meeting (no staggered board)

Plurality vote for contested elections

A

conventional

notification

process

for
trustee
nominations
and
other
important
Company
business

i.e.,
elimination
of
unreasonably
burdensome
ownership/holding
period
requirements
and other procedural roadblocks

No changes to these provisions without a shareholder vote

Corvex/Related

simply

propose

to

grant

shareholders

the

most

basic

of

shareholder rights:

Without each of these simple but powerful changes to CWH's governance,
there cannot be permanent accountability, and shareholders will be resigned to
the continuation of the downward spiral of CWH under Portnoy control

20
Corvex/Related s
Strategic
Plan
Operating Strategies: Updated Findings from the Field
Based
on
repeated
feedback
from

tenants,
brokers
and
owner/operators
across
CWH s
markets
regarding
their
experience
with
RMR,
we
believe:
Many
leasing
brokers
representing
tenants
across
CWH s
markets
steer
tenants
away
from
RMR-managed
properties
because
of
a
lack
of
attention
from
RMR
personnel
RMR
often
fails
to
execute
simple
asset
and
property
management
functions,
such
as

responding
to
tenant
work
requests,
and
challenging
real
estate
tax
assessments
Blake
Schreck,
president
and
economic
development
director
for
the
Lenexa
Chamber
of
Commerce,
didn't
sound
unhappy
about
Southlake
Technology
Park
changing
hands.
He
echoed
multiple
local
commercial
real
estate
brokers,
who
indicated
that
CommonWealth's
slow
response
to
requests
for

lease
proposals
from
prospective
tenants
had
likely
cost
the
933,0000-square-foot
office
park
deals
and
contributed
to
its
48
percent
occupancy
rate.

Kansas City Business Journal, October 23, 2013

Over
the
past
six
months,
representatives
from
Corvex
and/or
Related
have
independently
performed
detailed
site
visits
on
approximately
85%
of
the
portfolio

21

Corvex/Related s Strategic Plan

Operating Strategies: Updated Findings from the Field (cont.)

RMR

employees

appear

to

service

assets

for

CWH,
SIR,
GOV,
HPT,
SNH
and
the
Portnoys
privately
owned
real
estate,
encompassing
office,
retail,
hospitality,
senior
housing,
land
and
other
property
types
Leasing
staff
is
half
the
appropriate
level
and
a
true
asset
management
department
is
non-
existent,
in
our
opinion
It
appears
that
the
deficient
staffing
levels
are

kept
low
not
because
RMR's
staff
are
the
most
efficient
in
the
REIT
universe,
but
in
order
to
generate
profits
for
the
Portnoys,
a
problem
that
other,
internally-managed
REITs
do
not
have
Clearly,
assets
that
are
suffering
from
poor
management
should
only
be
sold
after
first
maximizing
value
for
CWH

shareholders
Opportunistic
funds
with
expensive
capital
(such
as
Oaktree
Capital
and
Garrison
Investment
Group)
were
among
the
largest
buyers
of
assets
in
the
last
round
of
CWH
dispositions
We
believe
there
are
too
few
employees
spread
over
too
many
assets
and
product types:

A
key tenet of our Strategic Plan continues to be the implementation of basic operating
strategies that "right the ship" and harvest a substantial amount of "low hanging fruit" for
CWH shareholders, not opportunity funds
But implementation is impossible under the current externally managed structure

22
Corvex/Related's Strategic Plan
Peaceful Transition of Authority
Plan A
To
eliminate
the
already
miniscule
risks,

the
board
members
could
implement
the
following
to
protect
CommonWealth
and
its
shareholders:
We
also
point
out
that
the
Arbitration
Panel
will
remain
available
for
resolving
disputes
even
after
the
removal
of
the
Trustees
and
during
the
transition
to
a
newly
elected
board
While
we
wholeheartedly
dismiss
the
scare
tactics

employed
by
the
Portnoys,
that
a
removal
of
Trustees
will
cause
the
business
material
harm,
we
ironically
point
out
that
the
sitting
board
members
could
easily
preclude
any
of
their
imagined
disruptions
from
occurring
by
acting
responsibly
in
advance
of
a
consent solicitation
If
shareholders
are
concerned
that
the
Portnoys
and

the
incumbent
board
will
work
against
shareholder
interests,
perhaps
that
will
make
the
upcoming
vote
an
even
easier
one
to
decide
Agree
to
allow
nominations
of
replacement
Trustees
concurrently
with
the
removal
of
existing
Trustees
Request
waivers
under
existing
financing
agreements
regarding
a
change
in
control
or
arrange
for
replacement

facilities
RMR
could
remove
language
or
simply
agree
not
to
immediately
terminate
its
management
of
the
assets
in
the
event
of
a
change
in
control

23
Corvex/Related s Strategic Plan
Disruptive Transition of Authority
Plan B
In
the
event
the
Trustees
are

not
cooperative
in
transitioning
authority,
Related
and
Corvex,
clearly
incentivized
to
minimize
disruption
as
one
of
CWH's
largest
shareholders,
have
a
plan
to
protect
the
Company
Shareholders
should
not
be
coerced
into
voting
for
the
current
board
out
of
fear
that
the
existing
Trustees
will
burn
down
the
house
on

the
way
out
the
door
Jim
Lozier,
a
30+
year
industry
veteran,
can
be
retained
to
lead
the
company
on
an
interim
basis
Mr.
Lozier
served
as
co-founder
and
CEO
of
the
Archon
Group
L.P.,
a
subsidiary
of
Goldman
Sachs,
from
its
formation
in
1996
until
2012
During
Mr.
Lozier's

tenure
at
Archon,
the
company
grew
from
320
employees
to
8,500
employees
managing
36,000
assets
with
a
gross
value
of
approximately
\$59
billion
CBRE,
one
of
the
world's
largest
integrated
real
estate
services
firms,
has
agreed
to
provide
interim
property
management
services
Successfully
managed
transition
of
leasing
/
management
services

for
1.2
billion
square
feet
of
commercial
properties
in
the
U.S.
over
the
previous
nine
years,
including
transitions
done
under
significant
time
pressure
Related
and
Corvex
have
agreed
to
purchase
up
to
51%
of
the
bank
debt
in
order
to
prevent
acceleration
of
the
Company's
debt

24
The Choice is Clear
Summarizing the Key Issues
Rampant
conflicts

A
company
controlled
by

its
managers,
who
own
little
stock
and
interested
primarily
in
fees
Accountability
vacuum

A
manager
that
answers
only
to
itself
Worst-in-class
corporate
governance

*All
out
efforts
to
deny
shareholders
their
fundamental
right
to
vote
Underperformance

Long
term
downward
spiral
driven
by
conflicts,
Accountability
Vacuum
and
poor
governance

Illusions

Check-the-box
governance
proposals
that
effect
zero
real
change
False
hope

Board s
track
record
belie
the
notion
that
they
have
embarked
on
a
journey
of
true
governance
reform
Retaining
the
current
board
will
doom
CWH
to
repeat
its
tortured
history
Removing
the
current
board
will
enable
CWH
to

begin
a
new
chapter
as
a
new,
truly
independent
company
Alignment
of
incentives

Like
virtually
all
companies
in
the
S&P500,
CWH
should
have
its
own
internal
management
team,
compensated
to
increase
shareholder
value
Accountability

Annual
elections
to
hold
the
board
and
management
team
accountable
for
performance
Best-in-class
corporate

governance

We
support
a
new
board
that
will
implement
ISS/Glass
Lewis
best
practices
Real,
tangible
change

We
support
a
new
board
that
would
commit
to
implement
the
changes
above
immediately

We
support
a
CWH
that
is
truly
independent
and
would
cease
all
related
party
transactions
not
approved

by
disinterested
shareholders

26
The
Portnoys
September
23
rd
Proposals
Wall Street's View
Our
sense

is
RMR
is
making
the
structure
less
bad
and
more
palatable
to
investors
ahead
of
a
possible
second
consent
solicitation
vote
CWH's
externally
managed
structure
is
a
relic
that
has
long
been
shunned
by
REIT
investors.
It
should
not
have
taken
this
long.
We
would
prefer
a
full
internalization.
Also,

there
are
too
many
executives
wearing
too
many
hats.
Adam
Portnoy
is
President
of
RMR
and
CEO
of
CWH.
Our
sense
is
a
dedicated
CWH
CEO
is
a
possibility
in
the
future,
but
that
internalization
is
off
the
table
likely
due
to
inherent
conflicts
in
negotiating
a
deal
and
valuing

the
manager.
Citigroup, September 23, 2013

27

Flawed RMR Structure and Poor Corporate Governance

Acting in the best interest of RMR rather than as a fiduciary

28

CommonWealth Corporate Governance Review

The Consequences of External Management and Poor Governance

Fees paid to RMR continue to grow, while CWH shareholder value is destroyed

CWH

paid

out

\$395

million

in

fees
to
RMR
during
2007-2012
(nearly
30%
of
CWH's
market
cap
as
of
2/25/13
(1)
,
while
CWH's
share
price
plummeted
68%
during
this
time
'07-'12
2007
2008
2009
2010
2011
2012
Total
Fees Paid Out to RMR
\$59.7
\$63.2
\$62.6
\$62.2
\$69.5
\$77.3
\$394.6
RMR Fees % Growth
--
5.9%
(1.0%)
(0.5%)
11.7%
11.2%
29.5%
RMR Fees as % of:

CWH Market Cap

4.5%

4.8%

4.7%

4.7%

5.2%

5.8%

29.7%

CWH Market Cap, Cumulative

4.5%

9.3%

14.0%

18.6%

23.9%

29.7%

29.7%

CWH Cumulative Stock Price Return

(37.4%)

(74.7%)

(46.0%)

(48.4%)

(66.3%)

(67.9%)

(67.9%)

(1)

Market cap of \$1.3 billion based on a closing price of \$15.85 on February 25, 2013, the day prior to Related and Corvex's first

(2)

RMR fees paid per CWH public filings.

29

History of Underperformance

Track Record

CWH has in our view performed poorly in absolute terms and underperformed its peers

(1)

on almost any metric over any relevant time period

-17%,

-45%,

-43%,

-45%,
and
-53%
CWH
stock
price
return
over
the
last
1
year,
2
years,
3
years,
5
years,
and
10
years,
respectively
(2)
Recent
valuation
nearly
40%
below
peers
on
unlevered
cap
rate
basis
(3)
53%
and
41%
discount
to
peers
on
a
price
/
forward
FFO
multiple
basis
for

last
year
and
3
years,
respectively
-23%
cash
available
for
distribution
per
share
(CAD
/
share)
growth
since
2010,
the
worst
performance
of
its
peers
\$2.7
billion
of
net
acquisitions
and
capex
since
2007
(over
2x
CWH's
recent
market
cap
(3)
),
while
CWH
book
value
per
share
is
essentially

flat
In
our
view,
there
is
absolutely
no
way
to
slice
and
dice
the
data
in
favor
of
the
Portnoys

their
performance
has
been
horrible

(1)

Select peers include Piedmont Office Realty (PDM), Highwoods Properties (HIW), Mack-Cali Realty (CLI), Brandywine Real

(2)

Returns data calculated through February 25, 2013, the day prior to Related and Corvex's first public filing.

(3)

Based on a closing price of \$15.85 on February 25, 2013, the day prior to Corvex and Related's first public filing.

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History of Underperformance

Share Price Performance

3 years

CWH has underperformed its peers over the last three years

Source: Factset

1 year

3 year

PKY

60.2%

(0.7%)

BDN

19.1%

15.4%

HIW

9.8%

21.4%

PDM

10.1%

16.1%

CLI

(5.0%)

(18.9%)

Average

18.8%

6.6%

CWH

(16.9%)

(42.9%)

CWH

Avg.

35.7%

49.5%

HIW: 21.4%

PDM: 15.4%

CWH: (42.9%)

PKY: (0.7%)

CLI: (18.9%)

BDN: 16.1%

31
Dilutive Equity Offering
A Prime Example of RMR's Conflict of Interest
Despite
protests
from
some
of
its
largest

shareholders,

a

bona

fide

offer

for

\$27.00

per

share,

and

in

our

view

no

need

to

issue

equity,

on

March

5,

2013

CWH

sold

34.5

million

shares

at

\$19.00

Transaction

increased

CWH s

share

count

by

41%

and

diluted

CWH s

NAV

by

over

\$6

per

share

Why

did

CWH

sell

its
\$240
million
minority
stake
in
GOV
only
after
issuing
new
CWH
shares
at
a
48%
discount
to
book
value?

Trustees
insulated
themselves
from
questioning
and
ignored
shareholder
demands
to
stop
offering

Canceled
investor
lunch
and
did
not
hold
Q&A
on
their
earnings
call
CWH s
use
of
proceeds

for
the
equity
offering,
at
a
massive
discount,
was
to
repay
debt
trading
at
prices
ranging
from
102%
to
111%
of
par

Remarkably,
CWH
did
not
have
any
upcoming
maturities
or
liquidity
issues
associated
with
this
debt
or
any
debt

However,
equity
offering
increases
Company's
equity
base,
creating

additional
capacity
to
do
acquisitions
and
thereby
pay
more
management
fees
to
RMR
We
believe
the
equity
offering
completed
in
March
2013
serves
as
a
clear
example
of
poor
management,
skewed
incentives,
and
terrible
capital
allocation

32

Failed Maryland House Bill Amendment
A Desperate Tactic from an All or Nothing
Adversary
Proposed
amendment
would
have
opened
door

to
make
it
impossible
to
remove
Trustees
without
cause
in
many
Maryland
companies
(regardless
of
voting
threshold),
even
if
shareholders
had
explicit
right
to
do
so
in
a
company's
charter
Similar
to
March
1st
bylaw
amendment,
CWH
couches
proposed
amendment
as
a
clarification
We
believe
notion
that
amendment
was
a

clarification
is
absurd,
a
view
confirmed
by
the
Arbitration
Panel,
as
existing
Maryland
law
expressly
contemplates
removal
of
staggered
board
without
cause
when
provided
for
in
a
company's
charter

as
is
unequivocally
done
in
CWH's
Declaration
of
Trust
CWH
used
deceptive
letters
(which
were
later
withdrawn)
from
a
conflicted

attorney
in
an
attempt
to
mislead
Maryland
senators
into
believing
amendment
had
broad
legal
support
and
was
ministerial,
when
in
fact
it
had
not
even
been
discussed
by
key
Maryland
bar
committee
(1)
Fortunately
for
CWH
shareholders
and
all
shareholders
of
Maryland-based
corporations
and
trusts,
the
amendment
quickly
died
once

legislators
became
aware
of
CWH's
manipulative
behavior
and
the
clear
fact
that
the
amendment
was
substantive
and
not
at
all
a
clarification
Current
Trustees
would
rather
manipulate
the
Maryland
legislative
process
and
change
the
law
than
face
their
own
shareholders
The
Portnoys
made
a
secret
attempt
(likely
using
CWH
money)

to
insert
an
11th
hour
amendment
into
a
Maryland
House
Bill
(1)

The proposed amendment was not even discussed by the Corporation Law Committee of the Business Law Section of the Maryland State Bar Association, which typically reviews and comments on all changes to Maryland corporate and REIT law before changes are heard by the Governor.

33

Corvex/Related's Corporate Governance Proposals

A Simple Blueprint for Change

CommonWealth can then elect a board of Trustees that:

Is truly independent (per ISS's definition)

Implements and can describe to shareholders the procedures designed to ensure its independent Trustees can continue to operate independently

Is accountable to shareholders

Hires its own independent advisors when necessary

Systematically sets performance goals for the management team, measures its performance, and holds it accountable for its failures

Objectively
benchmarks
its
corporate
governance
policies
against
peers

Challenges management's thinking on material strategic issues when appropriate

In short, shareholders can elect an experienced, independent board charged with being their advocate, a right that virtually all other public shareholders in the S&P 500 enjoy

When control of CommonWealth is returned to shareholders the conflict of interest between manager and owner will be eliminated, allowing CWH to join the ranks of nearly every other company in the S&P 500