

Edgar Filing: PHH CORP - Form DFAN14A

PHH CORP  
Form DFAN14A  
May 11, 2009

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 Registration [ ]
- Filed by a Party other than the Registrant [X]
- 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 [ ]
- [X] Definitive Additional Materials
- [ ] Soliciting Material Pursuant to ss.240.14a-12

PHH CORPORATION

-----  
(Name of Registrant as Specified In Its Charter)

PENNANT CAPITAL MANAGEMENT, LLC  
PENNANT OFFSHORE PARTNERS, LTD.  
PENNANT ONSHORE PARTNERS, LP  
PENNANT ONSHORE QUALIFIED, LP  
PENNANT SPINNAKER FUND LP  
PENNANT WINDWARD FUND, LP  
PENNANT WINDWARD FUND, LTD.  
ALAN FOURNIER  
ALLAN Z. LOREN  
GREGORY J. PARSEGHIAN

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

- Payment of Filing Fee (Check the appropriate box):
- [X] 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:  
-----
    - 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.:



## Edgar Filing: PHH CORP - Form DFAN14A

### A POORLY MANAGED COMPANY

In a meeting on August 19, 2008, PHH's Board Chairman told us that the Board was "tired" and that some directors were open to being replaced as a result of their efforts in connection with the Company's accounting restatement and the mortgage market downturn. While the economic climate in general, and the housing and financing markets in particular, have presented serious challenges, we believe, as described in greater detail in our proxy statement, that the Board has poorly managed the Company through these difficult times:

- o Failure to Understand PHH's Normalized Earnings Potential

Management has been unable to describe to Pennant the normalized earnings power of the Company, and has even suggested that in this economy there may be no such a thing as normalized earnings power. We believe that without such an understanding, the Board cannot set meaningful targets to track management's performance, cannot establish effective incentives for management, cannot explain to investors the Company's long-term earnings potential and cannot make fully informed capital allocation decisions.

- o Implemented Management Incentives Based on Significant Factors Outside Employees' Control

Awards under the Company's management incentive plans are based on achieving pre-tax income targets typically set annually in March. Achievement of these targets depends on external factors, such as future interest rates and market driven gain-on-sale margins, which cannot be controlled by employees and cannot be known by management when the targets are set. We believe incentive targets should focus on parameters that are largely within the employees' control, such as efficiency, cost structure and operational aspects and profitability of customer contracts.

- o Sufficient Focus on Profitability?

We question whether, until recently, the Board and management had focused sufficiently on the profitability of individual clients. If PHH did not have appropriate metrics in place to measure the profitability of individual clients, we believe PHH would have been unable to evaluate whether existing clients were sufficiently profitable and whether potential new clients were sufficiently profitable to pursue.

- o Too Slow to Reduce Mortgage Production Costs

Throughout 2008, management's goal for mortgage production was to break even. In May 2008, at the time of the 1Q earnings call, management already knew that refinancing activity was slowing down. By August 2008, on the 2Q earnings call, Mr. Edwards stated: "So getting it to break even is just not going to happen. So what we're going to do over the next few weeks is the management team of the mortgage company is going to brainstorm ...." Given that management knew of the slowdown months

-2-

before, we believe PHH should already have been "brainstorming" about the lack of profitability.

## Edgar Filing: PHH CORP - Form DFAN14A

- o Too Slow to Pass Through Fleet Funding Costs to Clients

While management was aware, from at least late 2007, that its actual vehicle financing costs significantly exceeded the indices used to pass these costs on to clients, the Board failed to ensure that concrete steps were taken to mitigate this impact until well into 4Q 2008. As a result, full recovery to Fleet's normalized earnings power has been meaningfully delayed.

- o Engaged in a Series of Public Relations Failures

We believe management has failed to communicate PHH's long-term earnings potential and has failed to adequately distinguish the Company from troubled financial institutions that take substantial balance sheet risks in their business models. Only last week, in a letter to stockholders, the Company actually took credit for being more sound than Countrywide, IndyMac and Washington Mutual, as though avoiding bankruptcy or a forced fire sale was the mark of success for PHH. We believe the Company's poor communications strategy and execution has hurt stockholders in a number of ways, including by making it harder for investors to value PHH based on its underlying earnings power and by making it harder for PHH to recruit and retain outsourcing clients.

### DO PHH'S MANAGEMENT AND BOARD EVEN "GET IT"?

Over the past year, we have met and spoken with PHH management and Board members and have encouraged them to address our concerns. These contacts with PHH have convinced us that the current Board will not take the necessary steps on a timely basis to effectively enhance stockholder value unless they are prodded by new, independent voices. That is why we are asking you not to return any proxy card you may receive from management and to vote only on the enclosed GOLD proxy card.

In a recent letter to stockholders signed by the entire Board and issued by the Company as a press release, the Board clearly demonstrated its failure to understand a critical issue for PHH. The Board wrote to you:

"while Pennant now alleges that [we] and management are not focused on developing long-term stockholder value, Pennant, in its filings with the [SEC] in November 2008, criticized [us] for `preferring instead to manage the Company for long-term growth and client relationships.'"

Apparently, the Board sees a contradiction in these two criticisms we've made of its stewardship. But what the Board fails to understand is that "long-term growth" does not always equate to "long-term stockholder value." If growth is unprofitable, then stockholder value is destroyed. And that has been one of our central concerns about PHH's

-3-

Board and management - whether they have focused sufficiently on profitability in their efforts to grow.

More recently, in a May 7, 2009 letter to stockholders, the Board questioned "whether Pennant's agenda is in your long-term interest," as though we had some nefarious plan we were trying to carry out through the election of two Independent Nominees to a Board of seven. All we are seeking to do is to ensure that the Company can meet its potential and create substantial value for all stockholders. We have never advocated that the Company focus on near-term

## Edgar Filing: PHH CORP - Form DFAN14A

profitability for its own sake and, unlike the Board, we have never mistaken growth for value.

### REJECT MANAGEMENT'S CYNICAL AND DESPERATE ATTACKS ON AN INDEPENDENT NOMINEE TO THE PHH BOARD

In its May 7 letter to stockholders, the incumbent Board attacked - with all the moral authority of a drive-by shooting - the integrity and qualifications of one of the Independent Nominees. Most egregiously, the Board smeared the reputation of Greg Parseghian with innuendo and half truths about his long service as Chief Investment Officer and then Chief Executive Officer of Freddie Mac. While Mr. Parseghian was Chief Investment Officer of Freddie Mac, that company engaged in questionable accounting practices that had the result of reducing strong current earnings and moving them into future accounting periods. In unloading its innuendo in an unfair, unbalanced manner, the Board failed to explain that:

- o Mr. Parseghian is not an accountant and was in no way responsible for Freddie Mac's accounting. Neither Freddie Mac's internal or outside auditors reported to him. The "Baker Botts report" that the Board cites in its letter explicitly expressed the belief that the Funding and Investments Division headed by Mr. Parseghian generally relied in good faith on Freddie Mac's internal and outside auditors to provide the necessary accounting advice and to ensure that transactions were accounted for in accordance with GAAP.
- o After the accounting scandal came to light and Freddie Mac's CEO and other top officers were terminated, the Freddie Mac board of directors, well aware of the circumstances surrounding the scandal and of the findings and conclusions of the Baker Botts report, chose to elevate Mr. Parseghian to the CEO position.
- o The Office of Federal Housing Enterprise Oversight (OFHEO), which was Freddie Mac's regulator, forced the Freddie Mac board to remove Mr. Parseghian as CEO under extreme political pressure. Having failed as a regulator to detect accounting problems at Freddie Mac, OFHEO was under intense public pressure, including threats to eliminate the agency, and needed to show that it was taking charge of an embarrassing situation.
- o Unlike other senior officers of Freddie Mac, Mr. Parseghian was never charged with improper activities and never even received notice that he was a target of an investigation.

-4-

In another example of a cynical attack, the Board observes in its May 7 letter that Mr. Parseghian is a director of Everquest, which in 2007 had sought to go public as a business consisting primarily of collateralized debt obligations secured by subprime mortgages. Everquest was affiliated with and had acquired many of its assets from hedge funds associated with Bear Stearns, and its efforts to go public ended after the value of its assets was questioned in the press, with suggestions that troubled Bear Stearns hedge funds were using Everquest to address their liquidity concerns. Without suggesting that Everquest or Mr. Parseghian had done anything wrong, or that the proposed public offering would not be marketed and priced to reflect the value and risk inherent in Everquest's assets, the Board questioned Mr. Parseghian's suitability for election to the Board. And this despite the Board's concession that "[i]t is not our role to determine what did or did not happen at Bear Stearns, the Bear Stearns hedge funds or Everquest, nor do we believe any allegations have been

## Edgar Filing: PHH CORP - Form DFAN14A

made that Mr. Parseghian was implicated in the collapse of the Bear Stearns hedge funds or the problems at Bear Stearns."

The Board has relied on accusations and innuendo, which we believe is fundamentally unfair. We believe stockholders should emphatically reject the Board's scare tactics and its cynical attacks on Mr. Parseghian.

VOTE THE GOLD PROXY CARD TO BRING MUCH NEEDED CHANGE -  
FRESH VOICES AND FRESH IDEAS - TO THE PHH BOARD

By asking you to vote the GOLD proxy card, we are not asking you to hand over control of PHH. We are only asking that you elect two new directors to a seven-member board so that ALL stockholders will be represented by at least two independent directors who have been nominated by stockholders for the express purpose of enhancing stockholder value and who in no way are beholden to management.

By voting the GOLD proxy card, you will be voting FOR the two Independent Nominees, as well as FOR the Company Nominee other than Terence W. Edwards and A.B. Krongard. We intend to vote the GOLD proxy card for the Company Nominee other than Mr. Edwards and Mr. Krongard because we believe that Mr. Edwards, in his capacity as President and Chief Executive Officer of the Company, and Mr. Krongard, in his capacity as Chairman of the Board, bear significant responsibility for a number of the self-inflicted problems facing the Company, and we have lost confidence in their ability to effectively and expeditiously handle future challenges and opportunities for the Company.

VOTE THE GOLD PROXY CARD TODAY TO HELP ENHANCE  
LONG-TERM STOCKHOLDER VALUE AT PHH

We encourage you to read our proxy statement, which accompanies this letter. We believe you will agree that we have, for some time now, worked assiduously to persuade the Company to make changes that could lead to the creation of stockholder value. Some of our suggestions have been adopted, although much too slowly, and others appear just to have been

-5-

ignored. We look forward with speaking to many of you during the course of this campaign, and hope we can count on your support.

If you have any questions, or need assistance voting your GOLD proxy card, please contact MacKenzie Partners, Inc., which is assisting us in this solicitation, at (800) 322-2885 (toll-free) or (212) 929-5500 (call collect) or by email at [proxy@mackenziepartners.com](mailto:proxy@mackenziepartners.com). You may also be able to vote by telephone or internet by following the instructions on the enclosed voting form.

On behalf of Pennant Capital Management, LLC,

Sincerely,

/s/ Alan Fournier

Alan Fournier  
Managing Member

If you have questions or need assistance voting the GOLD proxy card please contact:

MacKenzie Partners, Inc.  
105 Madison Avenue  
New York, New York 10016  
proxy@mackenziepartners.com  
Call Collect: (212) 929-5500  
or  
Toll-Free (800) 322-2885

---