The Love Song of The Delaware Court of Chancery

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Let us rule then, you and I,
When there’s theft of corp’rate opportunity
Like a patient over-billed by doctors able;
Let us read through certain less well-researched briefs,
The nimbly wrought conceits
Of high-paid lawyers in nearby hotels
Who work so hard all day for corporate shells;
Days that follow, full of insipid argument
Of questionable intent
That lead some to such aggravating questions . . .
Oh, do not ask, “Why is it?”
Let us rule, and don’t inquisit!

In the court attorneys come and go
Talking of prices high and low.

... 

And indeed there will be time
Time to cite Disney in Delaware,
With a weak spot for process seeming fair—
[They will say: “How his rules help business win!”]
My rules are right, laws see disloyalty as greater sin,
Not corp’rate course I most protest, with business judgments I begin—
[They will say: “But how can Michael Eisner win?”]
Why due care?
Surely bad faith is worst?
In opinions there is room
For decisions and omissions which the higher courts reverse.

... 

Oh the securities exchanges and the SEC!
Fearful of false traders,
Awake . . . watchful . . . such castigators,
They ask for more, wise use of Rule 10b.
Should I, finding fraudulent devices,
Have the strength to force the moment to its crisis?
And though I don’t see full disclosure ‘fore the trade,
Though I have seen losses [heaped highly] pile up as on a platter,
I cannot stop it—I see no bad actor;
But I too have seen omissions with scienter,
I have seen manipulations by a corporation slicker.
Long or short, a trade was made.

And would it have been worth it, after all,
Before the suits, demands refused by SLCs,
Directors independent, Section one-forty-one (c)s,
Would it have made sense to file,
To have argued that demand was just futile,
To have tried so hard to heed Zapata’s call
To argue interests false or domination
To say: “I am plaintiff pure, for class unsaid,
Come here to sue for all, I shall sue for all”—
If one, junking a lawsuit never read,
Should say: “There is no one to sue at all.
There is no one, at all.”

. . .

I grow bold . . I grow bold . .
I shall write some rulings that help law unfold.

Shall I part with precedent? Do I dare to find a breach?
I shall don my robe in chambers, and hear attorneys screech.
I have heard Justices talking, each to each.

I do not think they will overrule me.

I have read their tortured case law now for days
On Revlon and on Unocal attack
Of mergers sound and mega-deals off track.

We have day-dreamed in the Court of Chancery
Of lawyers’ claims, both righteous and unsound
Till our clerks’ voices wake us, and we frown.