Will the real Warren Buffett please stand up?

The disclosures of pre-acquisition deals by senior executives at Berkshire are disturbing. The jury is out on whether the behavior of these gentlemen amounts to insider trading or even breach of fiduciary duty. The episode is significant as Berkshire derives significant benefits from its unquestioned integrity. Besides, the self-serving dismissal of the matter by Warren Buffett makes matters worse

The recent developments at Berkshire Hathaway have rattled many in the world of investments. Some critics who had slipped into a stupor under the spell of the charm of its iconic founder, have now woken up in packs over the lack of transparency and the absence of systems at one of the world's most admired investment organisations.

Warren Buffett, who has been known for his quick wit and unflappable integrity, is struggling to deal with the fallout from the indiscretions of his two most trusted lieutenants-David Sokol and Charlie Munger. At the heart of the kerfuffle is the investment behaviour of David Sokol and Charlie Munger, who bought and held interests in companies that they helped Berkshire acquire subsequently. The fact that Mr Sokol was tipped to be Mr Buffett's successor, at the helm of the global conglomerate, and Mr Munger's stature as vice-chairman and the legendary investor's most trusted partner, has only added to the intrigue around these developments.

Mr Buffett announced in a statement in the last week of March that Mr Sokol had resigned to pursue philanthropic interests. Under normal circumstances it would have been an honourable reason, but then this is no ordinary exit. Mr Sokol crafted his exit only after it emerged that he had first, in December last year, and subsequently, this January, dealt in Lubrizol stock, just before he egged on Mr Buffett to acquire the oil company.

The concern for those associated with Berkshire would have grown further, when Mr Sokol spilt the beans on how Mr Munger also was a beneficiary of the transactions with BYD, the Chinese automaker which they acquired in 2008-09. Mr Munger held a stake in BYD through LL Investment Partners, before he encouraged Mr Sokol to pitch BYD to Mr Buffett. In both instances, the beneficiaries-Mr Munger and Mr Sokol-pocketed millions of dollars in windfall gains, at the cost of Berkshire's reputation.

The jury is out on whether the behaviour of these fine gentlemen amounts to insider trading, or even breach of fiduciary duty, but the case is more about business ethics and less about lawyers. The episode is significant as both Berkshire Hathaway and its participants derive significant benefits owing to its unquestioned integrity.

Investors across the world have seen and heard enough about malpractices in the financial industry and the morally bankrupt ways of some executives; what riles many in this instance is that there may be a case of theft from the temple and that the high priest seems content to brush the matter aside without the least remorse or rectitude.

Mr Buffett is an old hand in the reputation game-after all, the image of this folk hero from Nebraska has been hand-crafted carefully through annual letters that showcase his disciplined approach to investing and incorrigible integrity in leading life. However, his many brushes with controversy suggest that the lure of capital gains may have at times clouded the judgement of the Oracle of Omaha.

Here are a few specific instances that have come up over the years.

- Between 1972 and 1974, Mr Buffett and Mr Munger acquired shares in Wesco through an investment arm called Blue Chip, while actively working to derail Financial Corp's effort to take over the company. When the SEC investigated the deal after Berkshire acquired a majority stake, Blue Chip was made to pay $115,000 to Wesco shareholders as compensation against damages caused by Mr Buffett's manoeuvring deeds.

- Mr Buffett faced anti-trust charges in 1977, when he acquired the Buffalo Evening News. While the charges did not stick, there was noise on the street about Mr Buffett failing to honour unspecified gentlemen's agreements that were part of the transaction.

- A major controversy followed Berkshire's acquisition of a 12% stake in investment bank Salomon Brothers in 1987. A rogue trader placed bids in excess of treasury-stipulated limits and John Gutfreund, CEO at the time, conveniently turned a blind eye. When he was caught in 1990, the government handed a ban against Salomon bidding in treasury bond auctions. Mr Buffett used the considerable influence he wielded, to get the treasury department to reverse the ban on Salomon Brothers, saving the company from a disastrous collapse. Much later, in 1997, when Travellers bought Salomon, Berkshire gained more than double on its investment.

- More recently, in 2006, General Re was held responsible for co-operating with AIG to perpetuate what they called finite re-insurance. When it was held that this was just a means to indulge in accounting gimmickry, Berkshire paid a $92 million settlement to wash away its sins.

- It must be well known by now, how Buffett leveraged the financial crisis in 2008 to make beneficial investments buffered by tax payer money. Over $26 billion of Berkshire's money is invested in eight different financial institutions that have benefitted from the largesse in the form of TARP and FDIC's debt guarantee program. While he actively encouraged the bailout by the government, a proposal by president Obama to levy a bank tax to recover tax-payer money was resisted by Mr Buffet, drawing loud criticism from different corners.

Given this record, it is only fair that questions have been raised about a listed company and its governance practices. Berkshire is governed by a board that is less than independent-most of its members are personal friends of either Mr Buffett or Mr Munger. It is understandable that the media felt an independent board would have been more effective to avoid situations like these in a much-respected organisation.

While the noises from the Woodstock of the Investing World are those of ignorance, it is necessary that the financial media scrutinises Berkshire Hathaway with eyes wide open. Questions are being raised over the controls inside this hugely successful investment enterprise.

Quite certainly Mr Buffett and Mr Munger will face the ire of the media and angry investors at the annual meeting of the 40,000-odd enamoured shareholders and the usually eulogising bunch of analysts who thought nothing of basking in reflected glory. This year, however, it should be a heated affair, as there is a feeling of betrayal of trust.

At the Reuters Global Mergers and Acquisitions Summit last week, a straw poll of 23 top investment bankers indicated that all but two of the executives believed Mr Sokol should not have dealt in Lubrizol stock even as he was pitching the investment to his boss. Only one out of five felt that there was a primary case for insider trading. But the question isn't just about legalese. It is about the high standards expected of a self-proclaimed saint and his army of angels.

India is busy grasping with a slew of corruption scandals that have rocked not just the government, but also the high and mighty in the corporate world. The Commonwealth Games fiasco and the telecom scandal have exposed the dark nexus between the rich and the powerful who have bent every rule in the book for their convenience and enrichment.

At a time when Anna Hazare has pushed the issue of corruption in public office to the centre-stage in India, the Berkshire's episode has thrown up another type of corruption in thriving private enterprise. Given the circumstances, it is pertinent that the pink media question Mr Buffett's dismissal of the incident, as much as it ought to pause and reconsider its unqualified fascination for everything dished out of Omaha.

Recent history shows us that expecting integrity among corporate honchos is like looking for sheep among the wolves. It is time investors and independent bodies intensify their vigil and participation to ensure that they do not become victims of greed and fraud.