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Unimpeachable

ROSS GARBER IS AN EXPERT
AT SAVING ELECTED OFFICIALS

BY MICHAEL Y. PARK
PHOTOGRAPHY BY BRYCE VICKMARK

In June 2009, South Carolina Gov. Mark Sanford vanished without a trace for six days. His closest aides, political allies and the lieutenant governor were at a complete loss when reporters asked where the state's chief executive was. Sanford's own wife and four children didn't know where he was—and Father's Day came and went without a call from the staunchly conservative family man. Legal and political experts began to pose questions about the constitutional consequences of the unprecedented situation of an American state whose head of government had simply disappeared.

Then it got weird.

The day after a spokesman offered the flimsy explanation that Sanford was hiking the Appalachian Trail, Sanford suddenly reappeared in South Carolina and convened a hastily assembled press conference. He had spent the last six days in Argentina with the mistress he called his soul mate.

And it quickly became even more complicated. He wasn't going to resign the governorship. In August, legislators moved swiftly to establish plans for impeachment—and to many, it looked like a slam dunk.

"The media focus was so intense that it pushed Michael Jackson's death off the front page," says Kevin Hall, who served as one of Sanford's personal lawyers during the fracas. "It was a political feeding frenzy, and the governor's political enemies smelled blood in the water. South Carolina has never seen a political story like Mark Sanford's situation."

But impeachments of sitting governors are a rare event, and lawyers with experience in such cases are just as rare. Sanford's team needed to call in an expert.

They called Ross Garber.

"I have the privilege of getting involved with people and companies when all hell is breaking loose," he says with a grin.

Garber was born in southeastern Connecticut, went to the University of Connecticut for both his undergraduate degree (in

Storrs in 1989) and for law school (in Hartford in 1992). While an undergrad, he spent a summer in Washington, D.C., interning for the public defender's office, then, while in law school, he interned in Connecticut at a firm that focused on white-collar criminal defense.

"It wasn't a business transaction, it was somebody's liberty or their life at stake," he says. "It struck me how it upended their lives. It affected their marriages, their livelihoods and their psyches, and I liked that there are lawyers there to help people through it."

After law school, he spent three years at McKenna & Cuneo (now McKenna Long & Aldridge) in Washington, D.C., where he did internal investigative work on defense companies with government contracts in an era when the evening news still pounced on stories about bills for \$700 toilet seats on military planes. In 2002, he took a leave of absence to try politics—there was an opening for a state treasurer in Connecticut, and well-placed political types thought his background in government accountability would be a perfect fit after a recent corruption scandal. Garber, for his part, thought he could bring transparency and checks and balances to the state pension fund.

The result? "I got the silver medal," Garber says wryly. (Another try at politics followed in 2010, when he garnered a respectable result in a last-minute bid to become the Republican nominee for Connecticut attorney general.)

Even though Garber lost the state treasurer race, he gained the attention of higher powers in the state for his reputation for fairness. Gov. John G. Rowland, just beginning his third term, was accused of using his office for personal benefit—specifically, using government contractors to improve his weekend cottage free of charge. A grand jury had been called to probe the allegations, and legislators began to look into formal impeachment proceedings. Rowland's chief of staff asked Garber to head up the response to the investigation, and to make sure that the governor's office met all its legal obligations.

“It struck me how [legal problems] upended their lives,” Garber says of clients. “It affected their marriages, their livelihoods and their psyches, and I liked that there are lawyers there to help people through it.”

“One of things I quickly realized is that there is no rulebook for these kinds of things,” Garber says.

His first inclination was to avoid dealing with the press altogether. “Looking back to John Dean in the Nixon White House and continuing up through the Clinton administration, being counsel for a public official under investigation is a potentially perilous position,” he says. “One of the things I said was that I would not deal with the press because I found sometimes that’s where public officials wound up getting into trouble.”

After a few weeks of media silence and frank conversation with a local TV reporter, Garber changed his mind. He decided the best way to deal with the press was to be open and honest. So Garber became the de facto spokesman for the governor’s legal team—to the relief of Rowland’s personal attorney, Willie Dow.

“I get pissed off quick, but Ross can stay above the fray and maintain a practical perspective and approach things reasonably and objectivity,” says Dow.

Garber also got to sink his teeth into constitutional issues, such as whether or not a state legislature could subpoena a sitting governor. He also successfully argued for attorney-client privacy privileges between public officials and lawyers representing their offices—an issue the appellate courts are still split on.

“The bottom line was, I was a political ingénue, and Ross, he knows outside baseball and inside baseball as far as politics is concerned,” Dow says. “He was able to direct me were there might be rocks in the waters and where there was clear sailing.”

Rowland was never impeached; he resigned his office in June 2004. He pleaded guilty to accepting free work from a state contractor, and served a year and a day in a federal penitentiary.

After Rowland, Garber joined Shipman & Goodwin in Hartford, where he’s now a partner.

“I’m lucky enough to have a lot of cases that deal with the same intersection of business, the press and the law, and sometimes politics; cases where what happens in the courtroom may not be the most significant thing; where clients want somebody who can look at the big picture and litigate if need be, but also take into account the public relations issue, and sometimes the business issues and the government issues,” Garber says.

His combination of professionalism and collegiality was a breath of fresh air for Philadelphia attorney Lisa Mathewson, who dealt with Garber in an antitrust case this year. She was representing an individual, and he was defending a corporation.

“We were in potentially adversarial roles, and yet I had complete confidence in his integrity,” she says. “It was refreshing to me to be with a corporate counsel who so thoroughly understood and respected the interests of the individuals while protecting the rights of his client.”

When the call came from South Carolina, Garber was ready.

“Kevin [Hall] and I knew the vertical landscape out there was very low when it came to the intersection of law and politics, and neither one of us had ever handled an impeachment matter before,” says Butch Bowers, Hall’s partner in serving as Gov. Sanford’s personal counsel. “Ross brought experience, but also a fantastic sense of strategy and judgment.”

He also brought an open mind. South Carolina politics is an infamously complex network of family connections, university friendships and unspoken understandings that takes even many “connected” South Carolinians a lifetime to learn. Garber shed his outsider status quickly.

“He understood the bare-knuckled nature of the situation—we told him to eat barbecue, and he ate the barbecue, immediately,” Hall says. “Good judgment and smarts don’t have an accent.”

Garber battled the apparent inevitability of an impeachment by making his case legislator by legislator and—learning his lesson from the Rowland case—press briefing by press briefing.

“I found again in South Carolina that the press was respectful and willing to understand that impeachment is a very significant and solemn thing,” Garber says.

He laid down the arguments for why Sanford’s personal failings didn’t rise to the level of impeachment, and methodically and patiently won over legislators whose main concern was preventing South Carolina from suffering further national humiliation.

“Many folks wanted it to go away, and the governor’s enemies thought the easiest way to solve that was to make the governor go away,” Hall says.

At first, that is. By the time Garber was done, the ad hoc committee deciding whether the full Legislature should pursue impeachment voted against it 6-1.

“In August of 2009, the political winds were not looking good for Gov. Sanford of South Carolina. [Impeachment] was a *fait accompli*. It was in the bag,” Bowers says. “By December of 2009, we’d demonstrated to them that the governor’s failings ... were failings of the flesh, a personal and human weakness to which no human is completely immune, and that to attempt to topple a governor on that record would be unprecedented ... and subject the state to ridicule. Ultimately, they blinked.”

For Garber, there was no time to celebrate after the impeachment vote. He had more clients to defend.

“I got on a plane, and I got back to Connecticut,” he says. [▶](#)