

### CELEBRATING OUR 20TH YEAR [www.lustigmanfirm.com](http://www.lustigmanfirm.com)

#### THE FIRM

**Members:** Sheldon S. Lustigman, Andrew B. Lustigman, Scott A. Shaffer, Adam Z. Solomon

#### FIRM OVERVIEW:

The Lustigman Firm is a boutique law firm celebrating its 20th year. The Firm's practice is focused on advertising, Internet, and promotional marketing law. Clients include many of the country's most creative niche advertising and promotion agencies, direct marketers, Internet and interactive marketing agencies, as well as suppliers that support the advertising and marketing industry. The Firm provides clients with legal guidance to help ensure that an advertising campaign complies with federal and state laws and regulations, with a particular focus on Internet and other direct marketing campaigns. In addition, the Firm provides substantial advice and assistance in the development of promotional marketing campaigns, such as sweepstakes and games of skill. A significant portion of the practice also involves defending investigations and challenges brought by federal and state regulatory agencies regarding national advertising campaigns. The Firm also defends and prosecutes private false advertising challenges in federal court and before the National Advertising Division of the Better Business Bureau. Given this dual practice emphasis, The Lustigman Firm is able to provide its clients with keen insight regarding the latest developments in both the marketplace and the regulatory environment.

#### Main Areas of Practice:

Primary practice areas include advertising clearance, advertising law, regulatory investigations and litigation, advertising and business litigation, competitor challenges, direct marketing, health products and dietary supplements law, interactive marketing, Internet law, marketing contracts, privacy issues, promotions/sweepstakes marketing, telecommunications marketing, telemarketing, and sports law.

#### Advertising Clearance:

The Firm works with clients to help generate copy that is legally compliant with federal and state laws and the requirements of self-regulatory bodies for marketing in all media channels – Internet, television, print, radio, direct mail, telemarketing, and other electronic media. Provides clients with meaningful up-to-date insights on the regulatory landscape. Counsels on claim substantiation matters, including review of substantiation materials for product claims and working with medical and scientific experts in evaluating and supporting performance claims. Negotiates and reviews campaign-related agreements and licenses.

#### Regulatory Investigations & Litigation:

The Firm represents clients in regulatory inquiries and defends litigation brought by federal, state and local regulatory bodies. Significant experience defending matters brought in federal, state, and administrative forums by the Federal Trade Commission, United States Postal Service, United States Food and Drug Administration, United States Department of Justice, Federal Communications Commission, state attorneys general (either individually or collectively through NAAG), county district attorneys, and various state public utility commissions.

#### Business & Competitor Litigation:

The Firm represents companies in consumer and business litigation involving false and deceptive advertising issues, intellectual property, unfair competition and trade secrets and corporate matters in federal district courts and state courts as well as before administrative and arbitral bodies such as the American Arbitration Association and JAMS. The Firm also represents clients before the self-regulatory National Advertising Division of the Better Business Bureau in bringing and defending competitor advertising challenges.

#### Sweepstakes & Contests:

Counsels clients on legal compliance for sweepstakes, complex skill contests, interactive games and contests, consumer-created content, and other promotions. Assists advertisers and promotion agencies in developing contest rules for a wide variety of local, national and international promotions for clients ranging from boutique agencies to Fortune 500 corpora-

#### Offices

##### New York

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##### New Jersey

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tions to mid-size corporations to independent entrepreneurs. Reviews advertising copy, drafts rules and disclosures, coordinates registration and bonding, handles sponsorship and licensing issues and works to ensure structural integrity of the promotion. Significant experience on the regulatory defense side for promotional marketing campaigns.

##### Food, Drug, Cosmetic, & Dietary Supplements:

Counsels clients with respect to advertising campaigns and regulatory requirements for dietary supplements, cosmetic products, drug products, and foods. Represents clients in matters relating to Food and Drug Administration and Federal Trade Commission compliance, as well as state Board of Pharmacy matters such as drug substitution issues. Advises clients relating to claim substantiation, testimonials, and performance claims. Initiates and defends federal and state regulatory actions as well as private Lanham Act actions relating to product marketing and compliance matters.

##### Internet & Technology Law

Represents businesses in a wide array of matters relating to Internet and electronic marketing. Regularly counsels marketers regarding online advertising, e-mail marketing, prize promotions, e-commerce, privacy policies and protection, marketing to children, employee use of the Internet, coordination of offline and online business ventures, affiliate programs and other pay-for-performance marketing techniques. Also performs detailed reviews of Internet privacy matters. Advises clients with respect to Internet taxation developments.

##### Privacy:

The Firm counsels clients on use of individuals and celebrities in advertising and marketing campaigns and works to secure publicity rights. Advises clients on Internet privacy matters as well as privacy compliance with respect to financial medical and other personal matters.

##### Telemarketing:

Represents clients in navigating the complex telemarketing regulatory environment. Regularly reviews both telemarketing presentations and business arrangements on behalf of both marketers and suppliers. Counsels marketers and agencies with respect to "Do Not Call" issues and related matters, including structural review of telemarketing processes and vendor responsibilities.

##### Sports Law:

Provides legal representation to promoters, managers, individual athletes, and media businesses involved in various sports, particularly boxing and MMA. A significant portion of the practice involves representation of major fight promoters as well as direct representation of world champion boxers. Negotiates bout contracts, option agreements, provision of service contracts and promotional contracts with fighters, managers, and other promoters, pay-per-view (PPV) event contracts with broadcast and cable television networks, licensing agreements for the broadcast right with respect to domestic and foreign television networks, site fees and sponsorship agreements with casinos, hotels, and Native American tribes hosting professional boxing matches. Represents promoters and boxers in disputes with world sanctioning bodies. Litigates breach of contract and tortious interference disputes in federal and state court as well as arbitration proceedings.

**INTERNATIONAL WORK:** The Firm primarily handles client matters in the U.S. and Canada but has assisted in international promotions and investigations in the U.K. and European Union.

### **SHELDON LUSTIGMAN - Member**

Sheldon S. Lustigman is the founder of The Lustigman Firm, P.C. For over 40 years, he has concentrated in advertising law, promotional marketing law, and regulatory matters. Sheldon is highly respected for providing practical advice that clients can incorporate in their marketing and business practices. Sheldon enjoys an excellent reputation with many regulatory agencies throughout the country. He frequently handles litigation brought by federal, state, and local regulatory agencies, including defending actions and investigations and challenges instituted by the Federal Trade Commission, Food and Drug Administration, United States Postal Inspection Service, and state attorneys general. He also represents clients in private disputes involving marketing and other related matters in federal and state court.

Sheldon serves on numerous bar committees on marketing topics, including the law committees of the Promotion Marketing Association and the Direct Marketing Association. He is a member of the New York State, New Jersey State and Bergen County Bar Associations' Food and Drug Law Committees and the New York State and Bergen County Bar Associations' Antitrust Law Committees and a Member of the New York Academy of Sciences.

Sheldon is a graduate of the Cornell University School of Law. He is a member of the New York and New Jersey Bars. He is AV-rated by Martindale-Hubbell.

### **ANDREW LUSTIGMAN - Member**

Andrew Lustigman represents direct marketers, advertisers, media and Internet companies in all aspects of their advertising and promotional marketing business. Andrew assists clients in their marketing endeavors, including clearance of advertising and marketing materials, sweepstakes, games of skill, and other contests, direct marketing campaigns, infomercials, telemarketing campaigns, Internet marketing, intellectual property issues, and privacy issues. In addition, he handles inquiries and litigation brought by various federal and state regulators, including the Federal Trade Commission, the Federal Communications Commission, the United States Postal Service, the United States Senate, state attorneys general, district attorneys, as well as state public utility commissions, and self-regulatory bodies such as the National Advertising Division of the Better Business Bureau. He also handles consumer and business litigation involving false and deceptive advertising issues, intellectual property, and corporate matters.

For a decade, Andrew authored the legal column "It's the Law" for DM News, which was devoted to discussing important new cases and trends that direct marketers need to know. He has contributed to other publications, including the Promotion Marketing Association's Promotion Marketing Law treatise. He frequently speaks on subjects relating to direct and promotional marketing topics. Andrew is the chair of the ABA Special Committee on Promotion and Marketing Law, and serves on the law committees for the Promotion Marketing Association, Direct Marketing Association, and on the Consumer Affairs Committee for the Association of the Bar of the City of New York. He graduated Magna Cum Laude from The American University, Washington College of Law where he was Managing Editor of The American University Law Review. Andrew is the past President of the New York Chapter of the International Network of Boutique Law Firms. He is a member of the New York and New Jersey Bars. He is rated AV by Martindale-Hubbell, was named a Notable Practitioner by Chambers & Partners, and selected for inclusion in Super Lawyers NY Metro Edition.

### **SCOTT SHAFFER - Member**

Scott represents clients in both federal and state litigation as well as in various forms of alternative dispute resolution. A significant portion of Scott's practice is devoted to protecting intellectual property rights, and he has litigated trademark, copyright, false advertising and cybersquatting cases on behalf of The Lustigman Firm's clients. Scott has also worked extensively with the firm's direct marketing clients to ensure compliance with the myriad of complex laws that regulate solicitation of consumers via telephone and e-mail. His practice areas also include contractual disputes and appellate work.

Scott Shaffer is also prominently involved in sports and entertainment law. Scott concentrates on providing legal representation to boxing promoters, managers, individual boxers, and entertainment and media businesses involved in the sport of boxing in New York, New Jersey, and nationwide. A large part of Scott's boxing practice involves representation of major fight promoters, such as Gary Shaw and Sauerland Events. Current and former clients include world champions John Ruiz, Ricky Hatton and Kermit Cintron.

Prior to graduating from Fordham University School of Law in 1996, Scott was a staff member of the Intellectual Property, Media & Entertainment Law Journal. He is currently a member of the New York and New Jersey Bar and a member of the Association of the Bar of the City of New York (Sports Law Committee)

### **ADAM SOLOMON - Member**

Adam Solomon concentrates his practice in advertising, marketing, sweepstakes, promotions, clearance, and new media law. He advises clients in matters relating to advertising practices, sweepstakes, contests, regulatory compliance, licensing, privacy, telemarketing, email marketing and the Internet. He is regularly involved with the drafting and negotiating a wide array of commercial agreements, licenses and releases.

Adam has substantial experience representing marketers in connection with federal and state regulatory inquiries, investigations and actions. He initiates and defends challenges to advertising claims before the National Advertising Division of the Better Business Bureau. He also handles consumer and business litigation involving false and deceptive advertising issues, unfair competition, intellectual property and corporate matters. He is actively involved in the Direct Marketing Association, the Promotion Marketing Association, and other industry organizations.

Prior to joining The Lustigman Firm, Adam was an attorney at the law firm Davis & Gilbert LLP. He graduated from The Ohio State University and DePaul College of Law. He is a member of the New York Bar.

### **JILL L. ABITBOL - Of Counsel**

Jill Abitbol is a litigation attorney with extensive experience litigating general business disputes, as well as intellectual property and fraud actions in state and federal courts. She also has experience in alternative dispute resolution. A significant portion of Jill's current practice is devoted to counseling clients on protecting intellectual property rights and on the resolution of false advertising, unfair competition, copyright and trademark claims. She handles inquiries and litigation brought by various federal and state regulators as well.

Jill's pro bono work has included the representation of women in child support proceedings through InMotion, litigating a trademark case on behalf of a non-profit investigative news organization and fundraising for the Legal Aid Society's Associates' Campaign.

Prior to joining the Lustigman Firm, Jill spent seven years as a litigation attorney at Sonnenschein Nath & Rosenthal LLP.

### **BRUCE J. GROSSMAN - Of Counsel**

Bruce Grossman focuses on the organization, structure, financing and commercial transactions of our advertising and direct marketing clients at The Lustigman Firm. Bruce assists clients in structuring their relationships, including list management and list brokering, marketing arrangements, joint ventures, confidentiality, employment and executive compensation agreements, shareholder and partnership agreements, mergers and acquisitions, and secured and unsecured financings.

His extensive experience includes having served as corporate law partner, general counsel, and consultant to federal law enforcement agencies, and served as an adjunct business law professor. He is a graduate of Knox College and New York University School of Law. He is admitted to practice in New York and Pennsylvania.

### **JONATHAN EZOR - Special Counsel**

Jonathan I. Ezor serves as special counsel to The Lustigman Firm, P.C.

Jonathan is the Director of the Touro Law Center Institute for Business, Law and Technology, and an Assistant Professor of Law and Technology at Touro, where he teaches cyberlaw and business law. He is the author of Clicking Through: A Survival Guide for Bringing Your Company Online, <http://www.clickingthrough.com> and co-author of Producing Web Hits. He is also currently acting as the Reporter for the New York State Bar Association E-Filing Task Force. A technology attorney for more than a decade, Jonathan has represented advertising agencies, software developers, banks, retailers and Internet service providers as well as traditional firms, and has been in-house counsel to an online retailer, an Internet-based document printing firm and a multinational Web and software development company. He was also named one of Long Island Business News' Top 40 Under 40 for 2005. He has been a regular columnist on legal issues for Business Week Online and the @NY electronic newsletter, is a member of the Law Technology News advisory board, and contributes articles to various legal and technology publications. Jonathan is a graduate of Brandeis University and Yale Law School. He is admitted in the state of New York.