Andrew B. Lustigman represents marketers, advertisers, agencies and suppliers in connection with the legal aspects of their advertising and promotional marketing businesses. According to Chambers USA, Andrew was cited by clients as "pragmatic and always looking for solutions that meet a specific client's needs."

Andy Lustigman is a member of the Olshan Executive Committee and is Chair of the firm's Advertising, Marketing and Promotion's Group.

Leveraging his extensive experience in advertising, marketing and promotions, Andy counsels domestic and international clients regarding a broad range of matters, including the clearance of advertising and marketing materials, the structuring of sweepstakes, games of skill, and other contests, the development of social media programs and direct marketing campaigns from a compliance standpoint, and the resolution of regulatory, competitor, intellectual property and privacy matters. Having been recognized by Chambers USA for twelve consecutive years, Chambers noted that, "Andrew Lustigman handles a wide range of advertising issues, including providing compliance advice," and that "Clients appreciate that 'he is very practical' and 'always able to give good insights.'" Andy was acclaimed for his "experience, flexibility, and clear and to-the-point advice," and that "he is very knowledgeable about what is happening with regulatory bodies we may encounter." He is also noted as "a renowned transactional lawyer who is also adept in dispute resolution," noting that he "gives excellent advice" and "helps me find creative solutions." Andy's clients appreciate his "experience, flexibility, and clear and to-the-point advice," and that "he is very knowledgeable about what is happening with regulatory bodies we may encounter."

Advertising Clearance and Promotional Marketing Compliance

A significant portion of Andy's practice involves review of advertising and promotional campaigns to help ensure compliance with substantiation requirements and relevant legal standards. He provides advice for campaigns across all media channels — Internet, television, print, radio, direct mail, mobile, telemarketing, and other electronic media, as well as social media platforms.

Regulatory Investigations and Litigation

Andy regularly represents clients in advertising-related investigations and litigation brought by federal and state regulatory agencies, including the Federal Trade Commission, the Food and Drug Administration, Federal Communications Commission, the United States Postal Service, the United States Senate, state attorneys general and
Consumer and Business Litigation

He also handles individual consumer, consumer class action, and related commercial litigation involving false and deceptive advertising issues, intellectual property, and corporate matters. He advises clients on strategies to address emerging threats and on creative and aggressive defense theories. In prosecuting and defending his clients' interests, he frequently appears in federal and state court and before the National Advertising Division of the Better Business Bureaus.

Health Product Counseling and Defense

A core component of Andy's practice is advising clients on compliance with Federal Trade Commission and Food and Drug Administration requirements regarding advertising, labeling and distributing health-related products. These products include prescription drugs, OTC products, dietary supplements, medical devices, cosmetics, and medical foods. In addition, he frequently represents clients before these regulatory agencies in connection with investigations, warning letters, inspections, and litigation and in competitor disputes under the Lanham Act and state equivalents as well as in alternative dispute venues such as NAD and ERSP.

Industry Expert

Andy regularly appears on television, radio, and in publications such as the Wall Street Journal, New York Post, National Law Journal, Inside Counsel, Bloomberg BNA, Law360, Mobile Marketer, Luxury Daily, and Response discussing important new cases and trends that advertisers and marketers need to know. He also contributes to the Brand Activation Association/Promotion Marketing Association's Promotion Marketing Law treatise and various American Bar Association publications. He frequently speaks on advertising and promotional marketing law topics throughout the country.

Ranked by Chambers USA, Legal 500 US and Best Lawyers

Each year since 2008, Andy has been selected as a Notable Practitioner in his practice area by Chambers USA, the leading legal directory that publishes annual rankings based on interviews with thousands of clients. According to Chambers USA, he was acclaimed by peers for his skill as an NAD practitioner and for his traditional advertising expertise, with Chambers noting, "He's the one guy in the industry I'd go to. Every single issue in advertising, compliance, litigation, whatever — he does it all, and he does it well." Chambers USA has also described Andy as a premier choice for sweepstakes and contests work, quoting clients who say, "He's terrific: very creative and an excellent writer. He has been integral to our success." Legal 500 US has recognized Andy as a "Recommended Lawyer" in Advertising and Marketing. Clients praise Andy as 'an excellent name in the arena.' Additionally, Andy was selected by his peers for inclusion in The Best Lawyers in America for his distinguished work in Advertising.

Prior to joining Olshan, Andy was the principal of The Lustigman Firm, P.C.
PROFESSIONAL & COMMUNITY AFFILIATIONS

LAWorld International Legal Network

New York State Bar Association

New Jersey Bar Association

Association of the Bar of the City of New York, Consumer Affairs Committee

Brand Activation Association/Promotion Marketing Association, Legal Affairs Committee

American Bar Association, Committee on Promotion and Marketing Law (past chair)

American Bar Association, Consumer Protection Committee

Direct Marketing Association

Federal Communications Bar Association

REPRESENTATIVE MATTERS

• Represented a global financial services firm in obtaining NAD decisions in connection with four multi-million dollar, wide-spread, national advertising campaigns. Prosecution of challenges resulted in decisions requiring competitors to significantly modify their wide-spread commercial advertising campaigns.

• Represented a nutritional supplement industry leader in its challenge of the false and unsubstantiated claims made by a competing supplement provider that one of its products was superior. NAD ruled in favor of our client on all challenged claims and determined that the competitor should modify its advertising.

• Provides ongoing advice to the leading consumer advocacy publisher in connection with Internet marketing promotions, mobile applications, review of direct mail subscription pieces, and contests and sweepstakes. Provides ongoing legal advice on regulatory and compliance matters.

• Represents leading interactive promotion agency in structuring contests, drafting rules, and reviewing advertising and promotional materials. Provides ongoing legal support throughout the contest period and winner selection process.

• Represents the largest subscription radio broadcaster in connection with advertising, marketing and business practices, ensuring compliance with a myriad of federal and state laws. Specifically provides guidance with respect to telemarketing, automatic renewal, billing disclosures, and collection issues.

• Represents two leading interactive promotional marketing agencies and their clients with respect to their contests and promotions. Helps structure sweepstakes, draft rules, review advertising and promotional materials, and provides ongoing legal support throughout the sweepstakes period and winner selection process.
• Counsels mobile media and computing giant to ensure the marketing and business practices for its retail stores comply with a myriad of federal and state laws, specifically with respect to legal issues involving the retail marketing of the company’s mobile phone products.

• Defended an Internet service provider in connection with a high-profile investigation brought by the New York Attorney General. Developed a strategy, assisted in responding to the investigation, and ultimately obtained a satisfactory resolution. The settlement was part of “Operation Clean Turf” which received national media attention. We continue to represent the company in ongoing matters.

• Represented a technology company that powers leading hybrid travel agencies in connection with a competitor’s challenge to one of its agency’s online airline price and savings claims made in a wide-spread, multi-channel advertising campaign. NAD recognized that our client offers consumers air fare savings, including discount airfares, a best price guarantee, and additional savings opportunities that may not be generally available to consumers. We continue to represent the company in ongoing matters.

• Represented telecommunications suppliers in litigation with the Vermont Attorney General, regarding marketing and billing practices of companies providing third-party services.

• Defending marketer of memorabilia in connection with an FTC and NY State investigation relating to its marketing practices, specifically providing proactive advice in terms of advertising review and responding to inquiries and media issues.

• Advised investment banking firm in connection with its proposed acquisition of a stake in one of the largest health and fitness companies in the United States. Services included review of advertising, privacy, and marketing practices.

• Successfully defeated a motion for class certification, reducing liability from $20 million to $500, for a provider of on-demand automated voice broadcasting and bulk text messaging technology, that was named as a defendant in a class action lawsuit under the Telephone Consumer Protection Act. Also won a summary judgment motion against a co-defendant for indemnification.