

Restatement (Second) of Torts § 551 (1977) provides that the superior party in a confidential or fiduciary relationship may be liable for nondisclosure:

(1) *One who fails to disclose to another a fact that he knows may justifiably induce the other to act or refrain from acting in a business transaction is subject to the same liability to the other as though he had represented the nonexistence of the matter that he has failed to disclose, if, but only if, he is under a duty to the other to exercise reasonable care to disclose the matter in question.*

(2) *One party to a business transaction is under a duty to exercise reasonable care to disclose to the other before the transaction is consummated,*

(a) *matters known to him that the other is entitled to know because of a fiduciary or other similar relation of trust and confidence between them; and*

(b) *matters known to him that he knows to be necessary to prevent his partial or ambiguous statement of the facts from being misleading; and*

(c) *subsequently acquired information that he knows will make untrue or misleading a previous representation that when made was true or believed to be so; and*

(d) *the falsity of a representation not made with the expectation that it would be acted upon, if he subsequently learns that the other is about to act in reliance upon it in a transaction with him; and (e) facts basic to the transaction, if he knows that the other is about to enter into it under a mistake as to them, and that the other, because of the relationship between them, the customs of the trade or other objective circumstances, would reasonably expect a disclosure of those facts. (emphasis added).*