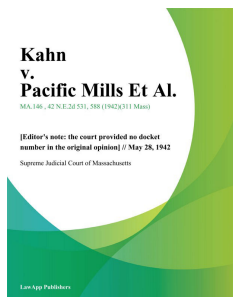


# PAWSUPP.COM Ebook and Manual Reference

## KAHN V PACIFIC MILLS ET AL EBOOKS 2019



Author: Supreme Judicial Court of Massachusetts

Realese Date: Expected @@expectedReleaseDate@@

COX, Justice. This is a bill in equity seeking specific performance of an alleged contract. The suit was referred to a master, whose findings were adverse to the plaintiff. His report was confirmed by interlocutory decree, and a final decree was entered dismissing the bill with costs. The plaintiff appealed from these decrees and from the denial of two of his motions, one of which was to recommit the report to require the master to find and report the subsidiary facts upon which he made the ultimate findings that no contract existed between the parties, that the plaintiff's offer to purchase was not accepted and that one Whiteside had no apparent authority to bind or represent the defendant Pacific Mills in the transaction; and to find and report all the material facts, so that the court may determine the accuracy of the master's 'rulings' on the plaintiff's requests for findings of fact that are incorporated in the body of the master's report, together with his actions thereon. This motion was denied. It was addressed to the sound discretion of the trial Judge (Smith v. Lloyd, 224 Mass. 173, 175, 112 N.E. 615), and we are of opinion that no abuse of discretion in denying the motion is shown. The plaintiff and one Ziskind, who was made a party defendant, made an offer in writing, addressed to the Pacific Mills, to purchase certain property, subject to acceptance on or before the close of business on July 10, 1941, and a check was given with the understanding that, if the offer was not so accepted, the check was to be returned immediately by registered mail. On July 10, 1941, Ziskind, who had made the offer in his and the plaintiff's behalf, was notified in writing that the offer had not been accepted. On that same day the plaintiff had been orally informed that the offer had not been accepted. The check was returned before the close of business on July 10, 1941. The master found categorically that the offer was never accepted by any person or by the board of directors of the Pacific Mills. It appears that one Whiteside entered into negotiations with the plaintiff and others for the purpose of interesting them in the purchase of the property in question. The master states Whiteside's duties and finds categorically that he had no authority to accept the offer to purchase, and that, in fact, he did not accept it. The plaintiff presented twenty requests for findings of fact (see Tuttle v. Corey, 245 Mass. 196, 203, 140 N.E. 249), of which the master found as requested in ten, and refused to find as to the others.

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