

COMMONWEALTH OF KENTUCKY  
MINE SAFETY REVIEW COMMISSION  
ADMINISTRATIVE ACTION NO. **14-MSRC-020**

COMMONWEALTH OF KENTUCKY,  
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER FOR

**JAMES CRESS JR.**

**RESPONDENT**

\* \* \* \* \*

This matter having come before the Mine Safety Review Commission (hereinafter "Commission") upon the Office of Mine Safety & Licensing's motion for default filed on or before May 8, 2014 and the members of the Commission having reviewed the Complaint filed on February 17, 2014 and making a determination of probable cause in the matter herein, and the Commissioners being sufficiently advised; and,

**WHEREAS** that pursuant to 825 KAR 1:020, Section 11 and 825 KAR 1:020 Section 7 Respondent failed to answer or otherwise plead or defend; and,

**WHEREAS** the respondent has been properly served and notified of the Complaint, the Probable Cause and the motion for default and made no answer or defense or participated in any way; therefore,

**IT IS HEREBY ORDERED** that a Final Order for default is entered against James Cress Jr.

**IT IS FURTHER ORDERED** that Respondent is **permanently ineligible for electrical certification;**

**IT IS FURTHER ORDERED** the Respondent's mining certificates are on **probation** for a period of no less than **(1) year** from the date of this Order;

**IT IS FURTHER ORDERED** that Respondent is ineligible for any other or additional certifications for a period of no less than one (1) year from the date of this Order;

**IT IS FURTHER ORDERED** that Respondent shall comply with all state and federal mine safety laws and regulations and that the willful violation of any of said laws or regulations may result in revocation for the remainder of the probationary period upon motion of OMSL.

**IT IS FURTHER ORDERED** that this Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13);

**IT IS FURTHER ORDERED**, that pursuant to KRS 351.194(8) and KRS 13B.140(1), **an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order.** The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

This is a **Final Order** this the 8<sup>TH</sup> day of May 2014.

A handwritten signature in black ink, appearing to read 'W. Donan', with a long horizontal line extending to the right.

Hon. William D. Donan, Chair  
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 9<sup>th</sup> day of May 2014:

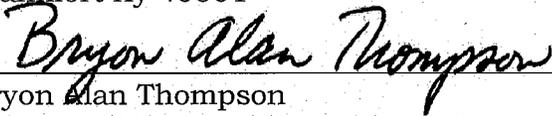
JAMES CRESS JR.  
9384 N. HWY 19 LOT 7  
TOTZ KY 41773

And by messenger mail to:

HON. SAMUEL J. OTTLEY III  
OFFICE OF GENERAL COUNSEL  
#2 HUDSON HOLLOW  
FRANKFORT KY 40601  
502/ **564- 2356**  
FAX 502/ 564 - 9212  
Counsel for OMSL

And the original shall be kept on file:

Mine Safety Review Commission  
132 Brighton Park Blvd.  
Frankfort Ky 40601

  
Bryon Alan Thompson  
Hearing Officer & General Counsel  
Mine Safety Review Commission