

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3218

11  
12 **ANGELICA TABARA**

**DEFAULT DECISION AND ORDER**

13  
14 Respondent.

[Gov. Code, §11520]

15  
16  
17 FINDINGS OF FACT

18 1. On or about April 10, 2009, Complainant Virginia Herold, in her official capacity as  
19 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
20 Accusation No. 3218 against Angelica Tabara (Respondent) before the Board of Pharmacy.

21 2. On or about June 30, 2005, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 63715 to Respondent. The License was in full force and effect at  
23 all times relevant to the charges brought herein and expired on February 28, 2009.

24 3. On or about April 14, 2009, Fe M. Domingo, an employee of the Department of  
25 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3218, Statement to  
26 Respondent, Notice of Defense, and Request for Discovery to Respondent's address of record  
27 with the Board: 416 88th Street, Apt. #7, Daly City, California 94015. Copies of the Accusation  
28 and service materials are attached as exhibit A, and are incorporated herein by reference..



1 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
2 License based upon the following violations alleged in the Accusation:

3 a. In violation of Business and Professions Code section 4301(f), in or around February  
4 2008, while she was employed as a pharmacy technician at a Walgreens Pharmacy in South San  
5 Francisco, CA, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or  
6 corruption when she created and cashed in fraudulent "refund" transactions using her manager(s)'  
7 identification number(s), fraudulently procuring/stealing at least \$14,600.00 in cash;

8 b. In violation of Business and Professions Code sections 4301(l) and or 490, based on  
9 the conduct described in paragraph 4(a) above, on or about March 27, 2008 Respondent entered a  
10 plea of *nolo contendere* and was convicted of violating Penal Code sections 508 / 487(a) (Grand  
11 Theft / Embezzlement), a substantially related crime;

12 c. In violation of Business and Professions Code section 4301, by way of the actions  
13 described in paragraph(s) 4(a) and 4(b) above, Respondent engaged in unprofessional conduct.

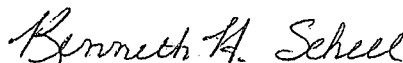
14 ORDER

15 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 63715, heretofore  
16 issued to Respondent Angelica Tabara, is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
18 written motion requesting that the Decision be vacated and stating the grounds relied on within  
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on October 14, 2009.

22 It is so ORDERED September 14, 2009.

23 

24 KENNETH H. SCHELL, BOARD PRESIDENT  
25 FOR THE BOARD OF PHARMACY  
26 DEPARTMENT OF CONSUMER AFFAIRS

27 40346466.DOCX

28 DOJ docket number:SF2008201011

Attachment: Exhibit A: Accusation No. 3218

**Exhibit A**

**Accusation No. 3218**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM, State Bar No. 214663  
Deputy Attorney General  
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San Francisco, CA 94102-7004  
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6 Attorneys for Complainant

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3218

11 ANGELICA TABARA  
12 aka ANGELICA SUYAT TABARA  
13 416 88th Street, Apt. #7  
Daly City, California 94015

**A C C U S A T I O N**

14 Pharmacy Technician  
15 Registration No. TCH 63715

16 Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about June 30, 2005, the Board of Pharmacy issued Pharmacy  
22 Technician Registration Number TCH 63715 to Angelica Tabara (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein. The Registration expired on February 28, 2009 and has not been renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.











1 EDMUND G. BROWN JR., Attorney General  
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2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM, State Bar No. 214663  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:  
11 ANGELICA TABARA  
12 Respondent.

Case No. 3218  
**STATEMENT TO RESPONDENT**  
[Gov. Code §§ 11504, 11505(b)]

14  
15 **TO RESPONDENT:**

16 Enclosed is a copy of the Accusation that has been filed with the Board of  
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered  
19 or mailed to the Board, represented by Deputy Attorney General Joshua A. Room, within fifteen  
20 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will  
21 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon  
22 the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed  
24 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided  
25 in section 11506 of the Government Code, to

26 **Joshua A. Room**  
**Deputy Attorney General**  
27 **455 Golden Gate Avenue, Suite 11000**  
**San Francisco, California 94102.**

28

1           You may, but need not, be represented by counsel at any or all stages of these  
2 proceedings.

3           The enclosed Notice of Defense, if signed and filed with the Board, shall be  
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any  
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in  
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation  
7 on you.

8           If you file any Notice of Defense within the time permitted, a hearing will be held  
9 on the charges made in the Accusation.

10          The hearing may be postponed for good cause. If you have good cause, you are  
11 obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,  
12 CA 94612, within ten (10) working days after you discover the good cause. Failure to notify the  
13 Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

14          Copies of Government Code sections 11507.5, 11507.6, & 11507.7 are enclosed.

15          If you desire the names and addresses of witnesses or an opportunity to inspect  
16 and copy the items mentioned in section 11507.6 of the Government Code in the possession,  
17 custody or control of the Board you may send a Request for Discovery to the above designated  
18 Deputy Attorney General.

19                           **NOTICE REGARDING STIPULATED SETTLEMENTS**

20          It may be possible to avoid the time, expense and uncertainties involved in an  
21 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
22 settlement is a binding written agreement between you and the government regarding the matters  
23 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
24 Board of Pharmacy but, once approved, it would be incorporated into a final order.

25          Any stipulation must be consistent with the Board's established disciplinary  
26 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the  
27 Board's Disciplinary Guidelines will be provided to you on your written request to the state  
28 agency bringing this action.

1 If you are interested in pursuing this alternative to a formal administrative hearing,  
2 or if you have any questions, you or your attorney should contact Deputy Attorney General  
3 Joshua A. Room at the earliest opportunity.

4 DATED: 4/14/09

5 EDMUND G. BROWN JR., Attorney General  
6 of the State of California

7 FRANK H. PACOE  
8 Supervising Deputy Attorney General

9  
10   
11 JOSHUA A. ROOM  
12 Deputy Attorney General

13 Attorneys for Complainant

14 40327254.wpd

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**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANGELICA TABARA

Respondent.

Case No. 3218

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: \_\_\_\_\_

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

**Check appropriate box:**

- I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANGELICA TABARA

Respondent.

Case No. 3218

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: \_\_\_\_\_

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

**Check appropriate box:**

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The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:  
11 ANGELICA TABARA  
12  
13 Respondent.

Case No. 3218  
**REQUEST FOR DISCOVERY**  
[Gov. Code § 11507.6]

14 TO RESPONDENT:

15 Under section 11507.6 of the Government Code of the State of California, parties  
16 to an administrative hearing, including the Complainant, are entitled to certain information  
17 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the  
18 Government Code concerning such rights is included among the papers served.

19 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU  
20 ARE HEREBY REQUESTED TO:

- 21 1. Provide the names and addresses of witnesses to the extent known to the  
22 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and  
23 2. Provide an opportunity for the Complainant to inspect and make a copy of any of  
24 the following in the possession or custody or under control of the Respondent:
- 25 a. A statement of a person, other than the Respondent, named in the initial  
26 administrative pleading, or in any additional pleading, when it is claimed that the act or  
27 omission of the Respondent as to this person is the basis for the administrative  
28 proceeding;

1           b.       A statement pertaining to the subject matter of the proceeding made by any  
2 party to another party or persons;

3           c.       Statements of witnesses then proposed to be called by the Respondent and  
4 of other persons having personal knowledge of the acts, omissions or events which are the  
5 basis for the proceeding, not included in (a) or (b) above;

6           d.       All writings, including but not limited to reports of mental, physical and  
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8           e.       Any other writing or thing which is relevant and which would be  
9 admissible in evidence, including but not limited to, any patient or hospital records  
10 pertaining to the persons named in the pleading;

11          f.       Investigative reports made by or on behalf of the Respondent pertaining to  
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names  
13 and addresses of witnesses or of persons having personal knowledge of the acts,  
14 omissions or events which are the basis for the proceeding, or (2) reflect matters  
15 perceived by the investigator in the course of his or her investigation, or (3) contain or  
16 include by attachment any statement or writing described in (a) to (e), inclusive, or  
17 summary thereof.

18  
19               For the purpose of this Request for Discovery, "statements" include written  
20 statements by the person, signed, or otherwise authenticated by him or her, stenographic,  
21 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,  
22 and written reports or summaries of these oral statements.

23  
24               YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for  
25 Discovery should be deemed to authorize the inspection or copying of any writing or thing which  
26 is privileged from disclosure by law or otherwise made confidential or protected as attorney's  
27 work product.

28   ///


1 Your response to this Request for Discovery should be directed to the undersigned  
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**  
3 **30 days after service** of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery  
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30  
6 of the Government Code.

7 DATED: 4/14/09

8 EDMUND G. BROWN JR., Attorney General  
9 of the State of California

10 FRANK H. PACOE  
11 Supervising Deputy Attorney General

12   
13 \_\_\_\_\_  
14 JOSHUA A. ROOM  
15 Deputy Attorney General

16 Attorneys for Complainant

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**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7  
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

**SECTION 11507.5: Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**SECTION 11507.6: Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

## **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

\*\*\*\*\*

DECLARATION OF SERVICE  
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Angelica Tabara*  
Agency Case No. 3218

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 14, 2009, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the same document(s) was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

ANGELICA TABARA  
aka ANGELICA SUYAT TABARA  
416 88th Street, Apt. #7  
Daly City, CA 94015

Certified Article Number

7160 3901 9849 2869 7645

SENDER'S RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 14, 2009 at San Francisco, California.

FE M. DOMINGO  
\_\_\_\_\_  
Typed Name

*FE M. Domingo*  
\_\_\_\_\_  
Signature

Daly City, CA 94015

**SENDER:** JAR

**REFERENCE:** Acc Pckt

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service  
**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

2. Article Number



7160 3901 9849 2869 7645

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

B. Date of Delivery  
4-15-05

C. Signature

X *Tabara*

Agent  
 Address

D. Is delivery address different from item 1?

If YES, enter delivery address below:

Yes  
 No

3. Service Type **CERTIFIED MAIL**

Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

ANGELICA TABARA  
aka ANGELICA SUYAT TABARA  
416 88th Street, Apt. #7  
Daly City, CA 94015

Acc Pckt

JAR