

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

J. D. JORDAN,

Plaintiff-Appellant,

v.

JAY C. HOAG, Founding General Partner,
Technology Crossover Ventures; et al.,

Defendants-Appellees.

No. 18-15451

D.C. No. 5:15-cv-01819-EJD

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Edward J. Davila, District Judge, Presiding

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

J.D. Jordan appeals pro se from the district court's judgment dismissing his action alleging a claim under § 16(b) of the Securities Exchange Act. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal under Federal Rule of Civil Procedure 12(b)(6), *Hebbe v. Pliler*, 627

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.3d 338, 341 (9th Cir. 2010), and we affirm.

The district court properly dismissed Jordan’s action because Jordan failed to allege facts sufficient to state a plausible claim. *See* 17 C.F.R. § 240.16b–6(a) (“The establishment of . . . a call equivalent position . . . shall be deemed a purchase of the underlying security for purposes of section 16(b) of the Act . . .”), § 240.16b–6(b) (disposition of underlying securities due to the exercise of a put equivalent position shall be exempt from the operation of § 16(b)); *Strom v. United States*, 641 F.3d 1051, 1060-62 (9th Cir. 2011) (setting forth elements of a § 16(b) claim; concluding that “unvested securities are acquired, and thus ‘purchased’ under § 16(b), when *granted*”); *Hebbe*, 627 F.3d at 341-42 (although pro se pleadings are construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief).

Appellees’ motion for summary affirmance and sanctions (Docket Entry No. 10) is denied.

Appellant’s motion for judicial notice (Docket Entry No. 18) is denied.

AFFIRMED.