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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DIMITRIY KARPOV, individually and on behalf of himself and all others similarly situated, et al.,

Plaintiffs,

and

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 825 PENSION FUND,

Plaintiff - Appellant,

v.

INSIGHT ENTERPRISES, INC., et al.,

Defendants - Appellees

and

KPMG LLP,

Defendant.

No. 10-17841

D.C. No. 2:09-cv-00856-SRB

MEMORANDUM\*

Appeal from the United States District Court

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

for the District of Arizona  
Susan R. Bolton, District Judge, Presiding

Argued and Submitted February 15, 2012  
San Francisco, California

Before: GRABER and TALLMAN, Circuit Judges, and TIMLIN, Senior District Judge.\*\*

Plaintiff-appellant International Union of Operating Engineers, Local 825 Pension Fund (“Appellant” or “Local 825 Fund”) appeals the district court’s dismissal of its securities fraud class action complaint with prejudice, for failing to adequately plead scienter. In particular, the district court found that none of the allegations from confidential witnesses could support an inference of scienter because the reliability and personal knowledge of the witnesses themselves were not properly pleaded. Further, the district court concluded that the other allegations could not, standing alone or taken together, satisfy the more stringent pleading requirements for scienter contained in the Private Securities Litigation Reform Act of 1995 (“PSLRA”). *See Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1000 (9th Cir. 2009).

We review *de novo* challenges to a dismissal for failure to state a claim under Federal Rules of Civil Procedure, Rule 12(b)(6). *Livid Holdings Ltd. v.*

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\*\* The Honorable Robert J. Timlin, Senior United States District Judge for the Central District of California, sitting by designation.

*Salomon Smith Barney, Inc.*, 416 F.3d 940, 946 (9th Cir. 2005). We affirm the district court for the reasons stated in its well-reasoned order dated November 16, 2010.

**AFFIRMED.**