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United States Court of Appeals
Tenth Circuit

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Christopher M. Wolpert
Clerk of Court

PUBLISH

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

HOMIE TECHNOLOGY, INC., a Delaware corporation,

Plaintiff - Appellant,

v.

NATIONAL ASSOCIATION OF REALTORS, an Illinois non-profit association; ANYWHERE REAL ESTATE INC., a Delaware corporation; HOMESERVICES OF AMERICA, INC., a Delaware corporation; HSF AFFILIATES, LLC, a Delaware limited liability company; RE/MAX, LLC, a Delaware limited liability company,

Defendants - Appellees,

and

KELLER WILLIAMS REALTY, INC., a Texas corporation; WASATCH FRONT REGIONAL MULTIPLE LISTING SERVICE, INC., a Utah corporation,

Defendants.

No. 25-4101

Appeal from the United States District Court
for the District of Utah
(D.C. No. 2:24-CV-00616-DAK)

Christopher G. Renner (Andrew K. Mann and Jonathan M. Shaw, with him on the briefs), Dhillon Law Group Inc., Alexandria, Virginia, for Plaintiff-Appellant.

Christopher G. Michel (Michael D. Bonanno and Michael J. Sebring, Quinn Emanuel Urquhart & Sullivan, LLP, Washington, D.C.; Samuel Heavenrich, Quinn Emanuel Urquhart & Sullivan, LLP, New York, NY; and Bryon J. Benevento and Adam C. Buck, Dorsey & Whitney, LLP, Salt Lake City, Utah, with him on the brief), Dorsey & Whitney, LLP, Salt Lake City, UT, for Defendants-Appellees Homeservices of America, Inc., HSF Affiliates LLC, and National Association of Realtors.

Aaron Van Oort (Kevin Wagner, Faegre Drinker Biddle & Reath LLP, Minneapolis, MN; Jeffrey A. Levee, Jones Day, Los Angeles, CA, and Eddie Hasdoo, Jones Day, Chicago, IL, with him on the brief), Faegre Drinker Biddle & Reath LLP, Minneapolis, Minnesota, for Defendants-Appellees Anywhere Real Estate Inc. and RE/MAX, LLC.

Before **TYMKOVICH**, **MURPHY**, and **CARSON**, Circuit Judges.

TYMKOVICH, Circuit Judge.

Homie Technology entered the Utah residential property market as a real estate brokerage in 2015. After several years of success, Homie saw its business plummet. It contends the cause of its troubles was an exclusionary boycott perpetrated by local real estate brokers and agents who were unhappy with the below-market commissions that Homie offered to brokers who brought buyers to its listed properties.

According to Homie, the boycott was only possible because of rules promulgated by the National Association of Realtors (NAR)—a trade association comprising the bulk of real estate professionals in the market. Those rules required listing-agents to advertise the commission they would pay to buying-agents and allowed buying-agents to filter properties they would show to potential buyers based on the commission offered. Since Homie's commissions were lower than the typical commission, it says buying agents refused to show Homie-listed properties to their clients—a practice known as "steering."

Homie sued the NAR and several of its competitor brokerages (Brokerage Defendants) for allegedly violating the Sherman Antitrust Act and the Utah Antitrust Act. Rather than challenge the boycott directly and sue the brokers, Homie attacked the NAR rules, alleging they reflected an anticompetitive conspiracy designed to exclude lower-cost brokerages from the real estate market. The defendants moved to dismiss for failure to state a claim. The district court, in granting the motion, found that Homie's claims were untimely under the applicable statute of limitations, and, alternatively, that Homie had not adequately alleged an antitrust injury.

Exercising jurisdiction under 28 U.S.C. § 1291, we **AFFIRM**. Since Homie filed suit more than four years after the NAR promulgated each of the challenged rules, its antitrust claims fall outside the limitations period. *See* 15 U.S.C. § 15b; Utah Code Ann. § 76-16-503 (West 2026). Homie is not entitled to the continuing conspiracy exception to the time-bar because it has not plausibly alleged that the challenged rules are themselves a conspiracy to exclude competitors. The boycott by unidentified NAR-member brokers was therefore not the continuation of a broader NAR conspiracy to exclude. Similarly, the NAR's annual reissuance and enforcement of the rules could not renew a non-existent conspiracy. As a result, Homie's antitrust claims are untimely and cannot go forward.

I. Background

A. Factual History

Homie Technology provides residential real estate brokerage services. It describes itself as a "technology-driven industry disrupter" that aims to "streamline[] residential real estate transactions for both sellers and buyers of homes." App. Vol. 1 at 31. Part of its business strategy is to reduce real estate transaction costs through lower brokerage commissions.

Standard practice in residential real estate transactions is to compensate brokers and agents with commissions based on a percentage of the home's sale price, paid upon sale. The selling-agent's commission is specified in a listing agreement, which serves as the contract between the selling-agent and the property seller. The agreement usually gives the agent the exclusive right to market the seller's home and "specifies the total commission a home seller will pay the seller-broker, often with a portion of that amount earmarked to be paid to the buyer-broker if the buyer has [one]." App. Vol. 1 at 35. Thus, buyer-brokers—who assist clients with making offers, negotiations, and moving a contract through to closing—are typically compensated by the seller-broker from the total commission paid by the seller, not directly from their buyer-client. Total commissions of 5–6%, split between the brokers, are common across the country and in Utah.

Most homes marketed for sale are listed on a Multiple Listing Service (MLS), a joint venture among virtually all brokers in a region that combines its members' home listings into a central database. An MLS listing allows a selling-agent to market a property to many potential buyers, and a buying-agent to provide his clients with information about all the listed homes that match their needs. Most MLSs nationwide are affiliated with the National Association of Realtors (NAR), a professional trade association of over 1.4 million real estate brokers. Given their market dominance, brokers consider participation in NAR-affiliated MLSs as critical to their businesses. All NAR-affiliated MLSs adhere to the rules and guidelines promulgated by NAR, and any broker desiring access must be a NAR member. The dominant MLS in Utah is the Wasatch Front Regional Multiple Listing Service, Inc. (WFRMLS), which is NAR-affiliated and owned by local NAR associations.[1]

Homie entered the Utah real estate market in 2015 as a self-styled "discount broker" with a plan to disrupt what it believed were inflated commission prices. It joined the WFRMLS. To entice sellers to retain it as a selling-broker, Homie avoided the typical 5–6% commission and charged either a flat fee or a "low commission." App. Vol. 1 at 40. To lower selling costs, Homie would also offer buying-agents a commission below that offered by traditional brokers. And to attract buyers to use its buyer-brokerage service, Homie would share a portion of the buying-agent commission offered by a seller with its buyer-clients. Homie says it also deployed new technology to automate portions of the sales process, which "allowed it to lower the price of its brokerage services to customers." App. Vol. 1 at 40.

[1] Homie named WFRMLS as a defendant but later dismissed those claims without prejudice.

Homie claims its entry into the Utah real estate market was initially successful, and that "at various times between 2017 and 2021" it was "among the five largest brokerages by market share in the state." App. Vol. 1 at 40. But it says its "initial success sparked an anticompetitive campaign among [its] competitors to exclude Homie" through "express and tacit boycotts." App. Vol. 1 at 41. The core of the campaign was a practice called "steering," in which local brokers refused to show Homie-listed properties to potential buyers or to show their listed properties to Homie-affiliated buyers. Homie says local brokers left comments on its MLS listings communicating their unwillingness to show Homie properties to clients unless Homie increased the buying-agent commission. And it claims that local brokers and agents used Facebook groups to coordinate boycotts of Homie's listings. As a result, Homie began to lose clients and was eventually forced to downsize significantly and shift its business practices.

B. Procedural History

In 2024, Homie sued NAR, the WFRMLS, and five of the largest brokerages operating in Utah[2] for violating Section 1 of the Sherman Antitrust Act and the Utah Antitrust Act, and for tortious interference with economic relations.

[2] The brokerages are: (1) Anywhere Real Estate, Inc., (2) Keller Williams Realty, Inc., (3) RE/MAX LLC, (4) HomeServices of America, Inc., and (5) HSF Affiliates, LLC (a HomeServices subsidiary corporation). Each of the Brokerage Defendants is a NAR member and participates in NAR leadership and decision making. Keller Williams settled with Homie before the district court ruled on the motion to dismiss and is not a party in this appeal.

Homie alleged NAR and the Brokerage Defendants effected an anticompetitive scheme by promulgating and enforcing the "NAR's Exclusionary Rules and Policies" governing MLS practices. These rules, according to Homie, inflated commissions and "restrained competition from brokers seeking to compete by offering lower prices." App. Vol. 1 at 38. Homie points to five NAR rules in particular[3]:

- (1) Buyer-Broker Compensation Rule: requires all home listings on an MLS to include an offer of compensation to buyer-brokers; adopted in 1996.
- (2) Commission-Filter Rule: allows buyer-brokers to filter MLS listings based on the level of buyer-broker commission offered; adopted in 2012.
- (3) Free-Service Rule: allegedly permitted buyer-brokers to represent to buyers that their services were "free"; adopted in 1997.
- (4) Commission-Concealment Rule: recommended that MLSs prohibit disclosing to prospective buyers the total commissions offered to buyer-brokers; adopted in 2012.
- (5) Clear Cooperation Policy: required MLS participants to post on the MLS "within one business day" any properties they publicly marketed elsewhere; adopted in 2019.

According to Homie, these rules combine to facilitate steering of clients by NAR-member brokers and agents away from discount brokers. The rules therefore "reflect concerted action between horizontal competitors and constituted agreements among competing real estate brokers that restrain competition in the relevant markets." App. Vol. 1 at 76. Homie contends the result of this conspiracy was its exclusion from the Utah real estate market.

[3] These are Homie's names for the rules.

NAR and the Brokerage Defendants moved to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). They argued that (1) Homie's claims are time-barred; (2) Homie lacked antitrust standing because it had failed to allege causation and had not alleged a sufficient antitrust injury to competition; and (3) Homie failed to state a tortious interference claim. The district court granted the motion in full.

First, it held that Homie's federal and state claims fell outside the four-year antitrust statutes of limitations and Homie had not shown a continuing conspiracy that would toll the limitations period. Its suit was therefore untimely. Then, as an alternative grounds for dismissal, the court held Homie lacked antitrust standing because it had not proven an antitrust injury. The district court initially noted that Homie could not prove antitrust injury based on higher prices allegedly caused by the rules because Homie benefited from those prices. It then explained that Homie's allegation that the rules were themselves exclusionary was implausible based on Homie's successful market entry and initial success. Next, the court refused to attribute to NAR and the Brokerage Defendants the boycott actions of unnamed third-party brokers based merely on the brokers' membership in NAR. Since neither the rules nor the boycott constituted an agreement by NAR or the Brokerage Defendants to exclude new entrants, the court found Homie had not adequately alleged antitrust injury. So Homie's antitrust case also failed for lack of antitrust standing.

Finally, the court dismissed Homie's tortious interference claim because it found Homie had not alleged that any defendant intentionally interfered with its current or future business relationships.

II. Discussion

Homie contends the district court erred. It argues that (1) it has adequately alleged a violation of the Sherman Antitrust Act and the Utah Antitrust Act, (2) it has adequately alleged antitrust injury based on its exclusion from the Utah real estate market, and (3) its claims are not time-barred because it is entitled to the continuing conspiracy exception to the statute of limitations.

We hold that the continuing conspiracy exception does not apply because Homie has not plausibly alleged that NAR's promulgation of the challenged rules and NAR-affiliated brokers' steering actions are distinct acts in furtherance of a single conspiracy. At bottom, Homie has not plausibly alleged that the NAR rules *themselves* constitute a conspiracy to exclude new market entrants. And the alleged exclusionary boycott by unidentified *individual* NAR members, while possibly an antitrust violation itself, cannot further a different conspiracy that does not exist. Similarly, NAR's annual reaffirmation and ongoing enforcement of the challenged rules could not continue a non-existent conspiracy to exclude Homie. Without a continuing conspiracy to toll the limitations period, Homie's antitrust claims are time barred.

Because we affirm on the statute of limitations, we need not address antitrust injury.

A. Standard of Review

We review the district court's dismissal for failure to state a claim under Rule 12(b)(6) de novo. *SEC v. Shields*, 744 F.3d 633, 640 (10th Cir. 2014). "We accept as true all well-pleaded factual allegations in the complaint and view them in the light most favorable to" Homie. *Id.* (quoting *Burnett v. Mortg. Elec. Registration Sys., Inc.*, 706 F.3d 1231, 1235 (10th Cir. 2013)). "To survive a motion to dismiss, a complaint must contain sufficient factual matter . . . to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). We do not "weigh potential evidence," but instead "assess whether the plaintiff's complaint alone is legally sufficient to state a claim for which relief may be granted." *Smith v. United States*, 561 F.3d 1090, 1098 (10th Cir. 2009) (quoting *Sutton v. Utah State Sch. for Deaf & Blind*, 173 F.3d 1226, 1236 (10th Cir. 1999)).

B. The Limitations Period and the Continuing Conspiracy Exception

Both federal and Utah law impose a four-year limitations period on Homie's antitrust claims. 15 U.S.C. § 15b; Utah Code Ann. § 76-16-503 (West 2026).[4] "The

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[4] Prior to May 2025, the Utah Antitrust Act instructed courts to interpret it "guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state antitrust statutes." Utah Code Ann. § 76-10-3118 (West 2025) (repealed 2025). Homie therefore argued to the district court that resolution of both its state and federal antitrust claims was controlled by federal antitrust principles. The Utah legislature repealed § 76-10-3118 in May 2025—after briefing on the motion to dismiss was complete but before the district court issued its opinion. No party brought the repeal to the district court's attention, and the court accepted and applied Homie's characterization of the case.

general rule is that an antitrust 'cause of action accrues and the statute begins to run when a defendant commits an act that injures a plaintiff's business.'" *Kaw Valley Elec. Coop. Co. v. Kan. Elec. Power Coop., Inc.*, 872 F.2d 931, 933 (10th Cir. 1989) (quoting *Zenith Radio Corp. v. Hazeltine Rsch., Inc.*, 401 U.S. 321, 328 (1971)). Homie does not challenge the district court's determination that its cause of action based on the NAR rules accrued between 2015 and 2019. And since it did not sue until 2024, more than four years after the latest possible accrual date, "its claims are barred absent tolling or some other exception to the statute of limitations." *Auraria Student Hous. at the Regency, LLC v. Campus Vill. Apartments, LLC*, 843 F.3d 1225, 1247 (10th Cir. 2016).

Homie argues it can still bring its claim based on the continuing conspiracy exception:

> In the context of a continuing conspiracy to violate the antitrust laws, . . . each time a plaintiff is injured by an act of the defendants a cause of action accrues to him to recover the damages caused by that act and that, as to those damages, the statute of limitations runs from the commission of the act.

Homie did not raise any objection after the district court ruled. And, on appeal, Homie again cites § 76-10-3118 and argues its federal and state claims are controlled by the same principles. *See* Aplt. Br. 10–11.

We proceed on the assumption that Homie's state and federal claims are governed by federal antitrust standards. The parties rely on federal caselaw to argue the issues and do not contend the district court erred in applying federal law. Indeed, based on Homie's representations to the district court, and to this court on appeal, any error respecting application of federal standards to its state-law antitrust claims would be invited. *Peterson v. Martinez*, 707 F.3d 1197, 1208 (10th Cir. 2013) (holding a party "cannot be heard to complain of any alleged error he himself invited").

Zenith Radio Corp., 401 U.S. at 338. We have interpreted the exception as "ha[ving] two requirements that are not entirely consistent: the acts in question must be distinct from the acts outside the limitations period, but they must continue the same conspiracy." *Kaw Valley Elec. Coop. Co.*, 872 F.2d at 933. "Whether an antitrust violation should be characterized as a single act or continuing violation is best determined by considering the type of violation involved." *Auraria Student Hous. at the Regency, LLC*, 843 F.3d at 1248 (quoting 8 Julian O. von Kalinowski et al., *Antitrust Laws and Trade Regulation*, § 162.02[2] (2d ed. 2016)).

According to Homie, the NAR rules constitute a conspiracy by all NAR members to exclude new entrants to the real estate market who wish to compete through lower brokerage fees. And the alleged exclusionary boycott against Homie continued that conspiracy through "acts of steering within the limitations period." Aplt. Br. 42. While Homie does not claim that NAR or the Brokerage Defendants directly participated in the boycott, it contends they are vicariously liable for steering by individual NAR members—who are co-conspirators in the exclusionary regime facilitated by the challenged rules. So while the NAR's and Brokerage Defendants' *direct* involvement in Homie's exclusion—their promulgation of the challenged rules—is outside the limitations period, the continuing conspiracy exception exposes them to suit for the exclusionary boycott, which occurred within the limitations period.

We disagree. The key premise of Homie's claim is that NAR's promulgation of the rules and the individual boycott actions furthered the same conspiracy: a conspiracy to exclude new entrants from the real estate market. We assume, for the sake of argument, that the alleged boycott demonstrates an exclusionary conspiracy in violation of § 1 of the Sherman Antitrust Act. Even so, Homie has not plausibly alleged that the challenged rules reflect an agreement by NAR members to achieve that same exclusionary objective.

In short, since the rules and the boycott are not part of a single conspiracy, the continuing conspiracy exception does not apply. *See Kaw Valley Elec. Coop. Co.*, 872 F.2d at 933.

1. The Challenged NAR Rules

"Section 1 of the Sherman Act prohibits '[e]very contract, combination . . . or conspiracy, in restraint of trade or commerce . . . .'" *Reazin v. Blue Cross & Blue Shield of Kan., Inc.*, 899 F.2d 951, 959 (10th Cir. 1990) (alterations in original) (quoting 15 U.S.C. § 1). "The essence of a violation of [Section 1] is the agreement itself." *Champagne Metals v. Ken-Mac Metals, Inc.*, 458 F.3d 1073, 1082 (10th Cir. 2006). A plaintiff may establish a § 1 agreement through either direct or circumstantial evidence.

According to Homie, the challenged NAR rules are direct evidence of a conspiracy to exclude new entrants from the real estate market. While association rules can serve as direct evidence of a § 1 agreement, *Llacua v. W. Range Ass'n*, 930 F.3d 1161, 1174 n.24 (10th Cir. 2019), we do not presume that *every* associational rule is an agreement to unreasonably restrain trade, *see N. Am. Soccer League, LLC v. U.S. Soccer Fed'n, Inc.*, 883 F.3d 32, 40 (2d Cir. 2018) ("[O]rganizational decisions do not inherently constitute § 1 concerted action.”). Rather, the challenged rules must reflect “a conscious commitment to a common scheme designed to achieve an unlawful objective.” *Monsanto Co. v. Spray-Rite Serv. Corp.*, 465 U.S. 752, 768 (1984). Rules that contemplate exclusion of competitors from the market satisfy that standard and violate § 1. *See Fashion Originators’ Guild of Am. v. Fed. Trade Comm’n*, 312 U.S. 457, 465 (1941) (enjoining an associational rule that “subjects all [competitors] who decline to comply with the [defendant’s] program to an organized boycott”).

So far, Homie’s allegation that the challenged rules represent an agreement to exclude competitors appears to satisfy the requirements for a § 1 violation. But the claim falters because the allegation that the rules are themselves exclusionary is not plausible based on the facts Homie asserted in its complaint. By its own admission, Homie’s entry into the Utah real estate market was “initially successful.” App. Vol. 1 at 40. Homie was able to launch its business in 2015, join NAR, join the Wasatch Front Regional MLS, and compete for clients. It even asserts that “at various times between 2017 and 2021, [it was] among the five largest brokerages by market share in the state.” App. Vol. 1 at 40. And far from experiencing exclusion for its lower commissions, Homie says an independent study concluded that homes it listed “sold eight days faster and for a 1.2% higher price than comparable homes sold by traditional listing agents and brokers.” App. Vol. 1 at 40. The challenged rules were in effect throughout that time, yet Homie acknowledges its ability to compete in Utah was not harmed until unnamed competitors conducted “an anticompetitive campaign” of "express and tacit boycotts." App. Vol. 1 at 41. Homie does not allege that it changed its business model in any relevant way between its market entry and the onset of the boycotts. And after years of Homie's operation as a discount broker within Utah, its competitors would have learned its typical commissions even without the challenged rules. Homie's own factual allegations therefore "do not square" with its claim that the rules are exclusionary. *Somers v. Apple, Inc.*, 729 F.3d 953, 964 (9th Cir. 2013).

Still, Homie repeatedly alleges that the challenged rules are exclusionary because they "facilitated boycotts of new entrants." App. Vol. 1 at 28; *see also* App. Vol. 1 at 41–56. But an allegation that associational rules facilitated an antitrust violation is not enough to establish that the rules are themselves anticompetitive. Recall that the crux of a § 1 violation is the agreement, *Champagne Metals*, 458 F.3d at 1082—so what matters here is the scope of the agreement as expressed by the rules. A broad legal rule that imposes antitrust liability based on *any* facilitation could punish associational defendants for independent actions that they never agreed to. In other words, rules crafted for a benign purpose might be abused or misused to achieve an anticompetitive purpose; but liability based solely on facilitation fails to distinguish between agreed-upon use and unendorsed, individual abuse. That distinction is important because allegations of exclusion must rule out that entities are independently deciding not to deal with a competitor. *See Monsanto Co.*, 465 U.S. at 760.

Of course, evidence that NAR or the Brokerage Defendants agreed with the boycotters to use the rules to exclude Homie would change the equation. But that subsequent agreement would be distinct from the one manifested by promulgation of the rules. Homie has alleged no agreement between the named defendants and the unnamed boycotters beyond the associational agreement contemplated by the rules. In sum, the rules do not reflect agreement to exclude Homie—or, for that matter, any other new entrant—and the alleged facilitation does not provide an end-run around the agreement requirement.

Homie's counterargument that "there is no requirement of a separate agreement to enforce the association rules in particular ways or against specific targets," Aplt. Br. 17, misses the point. It is true that when a rule reflects an agreement to exclude new entrants, a plaintiff need not prove a subsequent agreement to accomplish the exclusion of a particular new entrant. *See Fashion Originators' Guild of Am.*, 312 U.S. at 465. Alternatively, when such exclusion is the "necessary and direct consequence" of associational rules, we will infer an intent to exclude. *Anderson v. Shipowners' Ass'n of Pac. Coast*, 272 U.S. 359, 363 (1926). But Homie has not plausibly alleged that a boycott of Homie-listed properties was a "necessary and direct consequence" of the challenged rules. The closest it comes is an allegation that its loss of clients—and eventual exclusion from the market—"was the natural, foreseeable, and intended effect *of the steering facilitated by* the [challenged rules]." App. Vol. 1 at 42 (emphasis added). That claim brings us right back to Homie's facilitation argument, which we have already rejected.

Moreover, a necessary and direct consequence is more than a "foreseeable" one. Homie's principal case on the issue illustrates the point. In *Eastern States Retail Lumber Dealers' Association v. United States*, 234 U.S. 600 (1914), the Supreme Court found a trade association's publication of a "blacklist" made it liable for boycotts perpetrated by its members. The defendant was an association of lumber retailers that solicited reports from its members regarding the activities of non-member lumber wholesalers. If a member suspected a wholesaler of selling directly to consumers, rather than going through a retailer, the member was expected to promptly report that activity. The association would then add the wholesaler to lists that it circulated to its members, which were "commonly spoken of as blacklists." *Id.* at 608. While the retailers did not explicitly agree to boycott listed wholesalers, the association admitted in litigation that its "very object . . . in circulating the [blacklists]" was "to cause retailers . . . to withhold patronage from listed [companies]." *Id.* at 609. The Court consequently found that the association could have "but one purpose in giving the information in this form to [its] members," namely, to cause the boycott of noncompliant wholesalers. *Id.* at 608.

We have no similar admission from NAR or the Brokerage Defendants that the purpose of the challenged rules is to cause their members to refuse to deal with low-cost brokerages. To the contrary, NAR's Code of Ethics prohibits agents from steering clients away from properties that suit the client just because the agent is unhappy with the commission offered. *See* Supp. App. 414. And rules governing how brokers list and filter properties lack the obvious link to an exclusionary purpose that is evident in maintenance and publication of blacklists. So some individual brokers' use of the rules to facilitate a boycott is at most a possible consequence of their adoption, not a "necessary and direct" one. *Cf. Supermarket of Homes, Inc. v. San Fernando Valley Bd. of Realtors*, 786 F.2d 1400, 1407 (9th Cir. 1986) (rejecting argument that a realty board's rules that "passively allowed" brokers to identify and steer clients away from discount listings was a conspiracy to boycott).

We also reject Homie's more general assertion that the rules are a conspiracy to restrain trade, and therefore any NAR member actions that exclude competitors are a continuation of the conspiracy. To assess whether alleged antitrust violations are separate or comprise a continuing conspiracy we "consider[] the type of violation involved." *Auraria Student Hous. at the Regency, LLC*, 843 F.3d at 1248. Homie has alleged both the challenged rules and the boycotts were exclusionary. So the relevant continuing-violation framework is a "refusal to deal." *See id.* Linking the rules and the boycotts to the same conspiracy therefore requires a plausible allegation that the rules contemplated refusals to deal, not just an amorphous restraint of trade. Homie makes no such allegation.

2. Annual Reaffirmations of the Rules

Homie's final argument for tolling is that NAR's annual reaffirmation and ongoing enforcement of the challenged rules were distinct acts within the limitations period. According to Homie, since the "rules foreseeably caused the boycotts that injured [it], their review, reissuance, and enforcement are independently sufficient to trigger the continuing violation doctrine." Aplt. Br. 47. We disagree.

We have already rejected Homie's argument that the rules independently comprise a conspiracy among NAR members to exclude it from the real estate market. That holding forecloses the possibility of a continuing conspiracy based on the rules' reissuance and enforcement. Distinct "actions within the limitations period" only comprise a continuing conspiracy if they "manifest a commitment to renewing and enforcing" the anticompetitive agreement. *Champagne Metals*, 458 F.3d at 1089 (citation modified). Renewing and enforcing rules cannot continue a conspiracy that does not exist. Since we have found Homie did not plausibly allege the rules are a conspiracy to exclude competitors, the reissuance and enforcement of the rules are not a continuing conspiracy.

Contrary to Homie's argument, its case is unlike *Auraria Student Housing at the Regency, LLC v. Campus Village Apartments*, 843 F.3d 1225 (10th Cir. 2016). In *Auraria*, we affirmed the district court's finding that a public university's ongoing enforcement of a campus-living policy that required freshman students to live in a designated, privately owned apartment building was a continuing conspiracy. We did so based on a claim that apartment management had conspired with the university to monopolize the provision of student housing in violation of § 2 of the Sherman Antitrust Act. *See* 15 U.S.C. § 2. The case came to us after a jury found the apartment liable on the § 2 claim. The apartment challenged the verdict based on sufficiency of the evidence and renewed its arguments on the statute of limitations and state action immunity. We vacated the verdict and remanded because intervening authority from the Supreme Court clarified that the plaintiff needed to define the relevant market to succeed on its conspiracy-to-monopolize claim, which it had not done. At that stage of proceedings, it was clear that the campus-living policy reflected an agreement between the apartment and university to exclude competitors from the student-housing market. With the conspiracy-to-exclude established, the only remaining question was whether the university's ongoing enforcement of the policy continued that conspiracy. We held that it did.

Auraria therefore had what Homie lacks: a conspiracy to exclude. Without that conspiracy, no action, not even the ongoing enforcement of a policy or rules that allegedly facilitated exclusion, can constitute a continuing violation.

III. Conclusion

Homie has not plausibly alleged that the challenged rules were a conspiracy to exclude competitors from the Utah real estate market. As a result, neither the boycott actions of individual NAR members nor the NAR's reissuance and enforcement of the rules constituted a continuing conspiracy. Homie's claim is therefore untimely. We affirm the district court's judgment.