



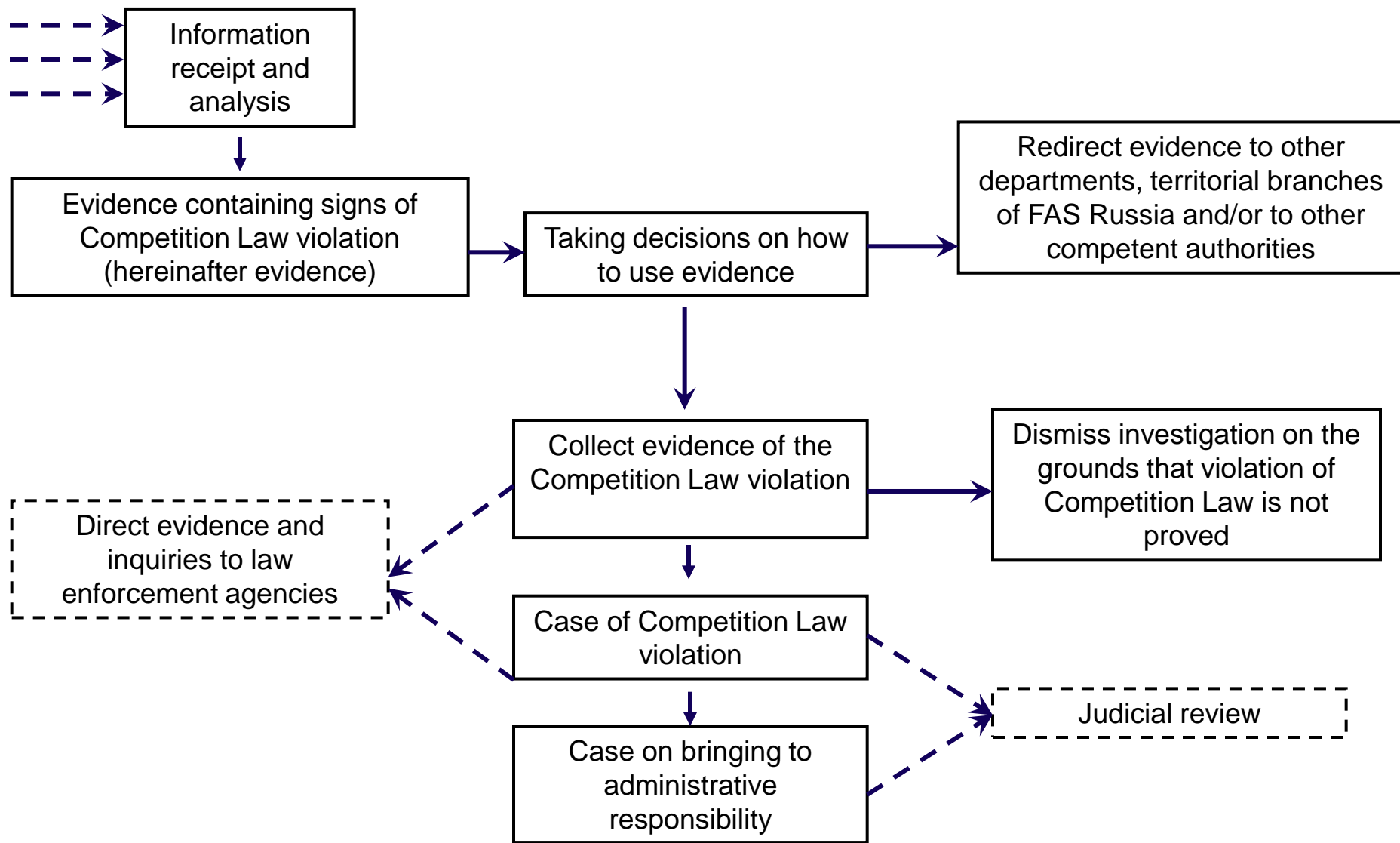
FEDERAL ANTIMONOPOLY SERVICE

Tools and methods of cartel investigation

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INFORMATION, RECEIPT AND ANALYSIS



SOURCES OF INFORMATION

- **Complaints, applications officially received by FAS;**
- **Information received from law enforcement agencies;**
- **Informants (insiders);**
- **Leniency applications;**
- **Dawn raids;**
- **Media monitoring;**
- **Monitoring of oligopoly markets and dominant manufacturers;**
- **Analysis of socially important markets (oil products, pharmaceutical products, foodstuffs, communal services, etc.);**
- **Monitoring of associations of manufacturers**
- **Information from electronic bidding platforms**

THE EVOLUTION OF DIRECT EVIDENCE

1. The content of the document is obvious (setting up a Cartel)
2. The name of the agent is obvious
3. The document is signed (and sealed)

1. The content of the document is obvious (setting up a Cartel)
2. The name of the agent is obvious
3. The document is not signed

1. The content of the document is ciphered
2. The name of the agent is ciphered
3. The document is not signed

- **CIRCUMSTANTIAL (INDIRECT) EVIDENCE** denotes implicit facts that can help to analyze the behavior of several companies being participants of cartel agreement (*communication and economic evidence*);
- use of circumstantial evidence holistically, giving its cumulative effect (*OECD «Prosecuting cartels without direct evidence» roundtable 2006*);
- **Communication evidence** – any information about meetings of cartel participants or any other ways of their communication (especially);
- **Economic (conduct or structural) evidence** – evidence of parallel conduct with mutual interest (simultaneous and identical price increase, suspicious bidding patterns etc.) caused by cartel + use of mathematical methods (game theory etc.), market analysis (high market concentration, homogenous products).

SPECIAL TOOLS TO COLLECT DIGITAL EVIDENCE

THE MOBILE ELEMENT OF THE KIT

is designed to obtain an accurate sector-by-sector copy of information from the computer of an inspected person

Copying takes place by connecting the Kit to a network portal or a USB port on a computer (without seizing the memory from the computer).

The Kit does not change a file system on a computer since downloading of the operation system is exercised from a compact disk or a flash carrier with special software. It also overcomes the problem of accessing the password-protected data.

To minimize the time required to copy information, recording is made simultaneously to two information carriers. Later one record is used as a working copy to analyze the obtained information, while the second record is sealed and is stored as a reference copy if, for instance, it would be required to be presented at Court.



The mobile element also includes a band printer, required to print hashed labels (the exact size of the source disk in bites), as well as information about an inspected person, the source disk, the time of printing the label, etc.

SPECIAL TOOLS TO COLLECT DIGITAL EVIDENCE

THE STATIONARY ELEMENT OF THE KIT

is designed to analyze any information carriers including damaged ones



Unique software enables to:

- **Restore deleted files**
- **Extended searching, in particular, by the key concepts, the date of creating documents, file extensions (groups of file extensions)**
- **Analyze an operation system installed in the inspected disk**
- **Determine a list of users and their passwords**
- **Determine a list of devices ever connected to the computer**
- **Browse electronic communications that took place from this computer: mail tools and chats (icq, Skype, etc.)**



PRACTICE



Clothing and equipment for Ministry of Internal Affairs

Case summary: participants of collusion (32 members of cartel) applied for auction items they are interested in, then "shared" the item between them, using certain "quotas" as a unit of calculation, in the bidding for each item one participant predetermined to be the "assembly" "won" the highest possible price in the actual non-participation of the others

evidence: along with documents and files which were collected by the FAS Russia during the dawn raids and leniency applications , we used the results of examination of conduct of auction participants using theory of chances, game theory, mathematical statistics: more than 100 public bids with similar items, the same participants, the same winners, minimum price reduction.

Administrative Liability: companies – members of the cartel were imposed administrative fines of approximately 15 mln. rub (330 000 Euro.) in total amount.

Immunity and reduction: the first applicant was released from liability. Other companies which filed such claims in the second and then turn, were imposed minimal fines by applying to them the maximum set of mitigating circumstances provided in the Administrative Code .

Criminal Liability: Materials of this case transferred to the internal affairs authorities to make a decision on the issue of initiation of a criminal case under the Article 178 of the Criminal Code .

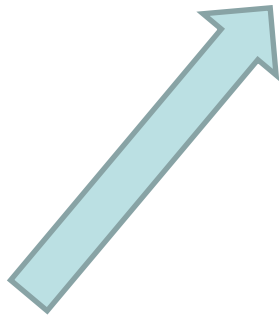


Case summary: the municipality of North administrative district of Moscow, LLC "PUBLICITY - BUILDING project №2" and LLC "Delta Stroy" have made and executed an agreement, aimed at eliminating competition in trading on the execution of works on extensive repair of yard playgrounds in the North -Eastern Administrative District of Moscow.

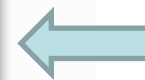
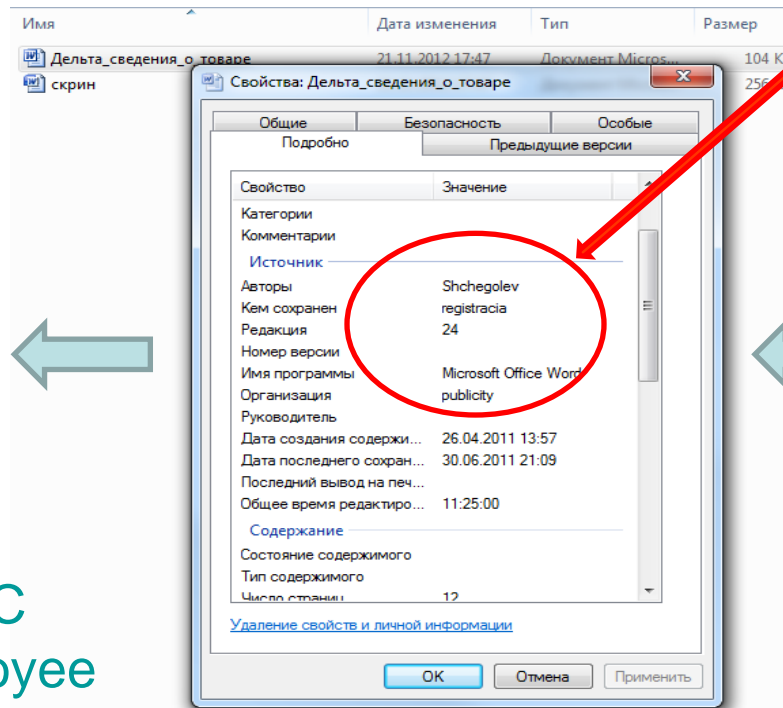
Evidence: at the request from FAS, the electronic trading platform provided the tender documentation on this tender in electronic form. In the course of the analysis it was found that the company "PUBLICITY - BUILDING project №2 " prepared part of the bidding materials of "Delta Stroy" in order to participate in the open auction in electronic form (file property of the claim indicates this fact). This information was also confirmed during the «dawn raids».

Electronic trading platforms

File which was sent to ETP and copied from the computer of LLC «Delta Stroy», was initially created on a computer of LLC «PUBLICITY-BUILDING project №2»



Computer of LLC «Delta Stroy» employee



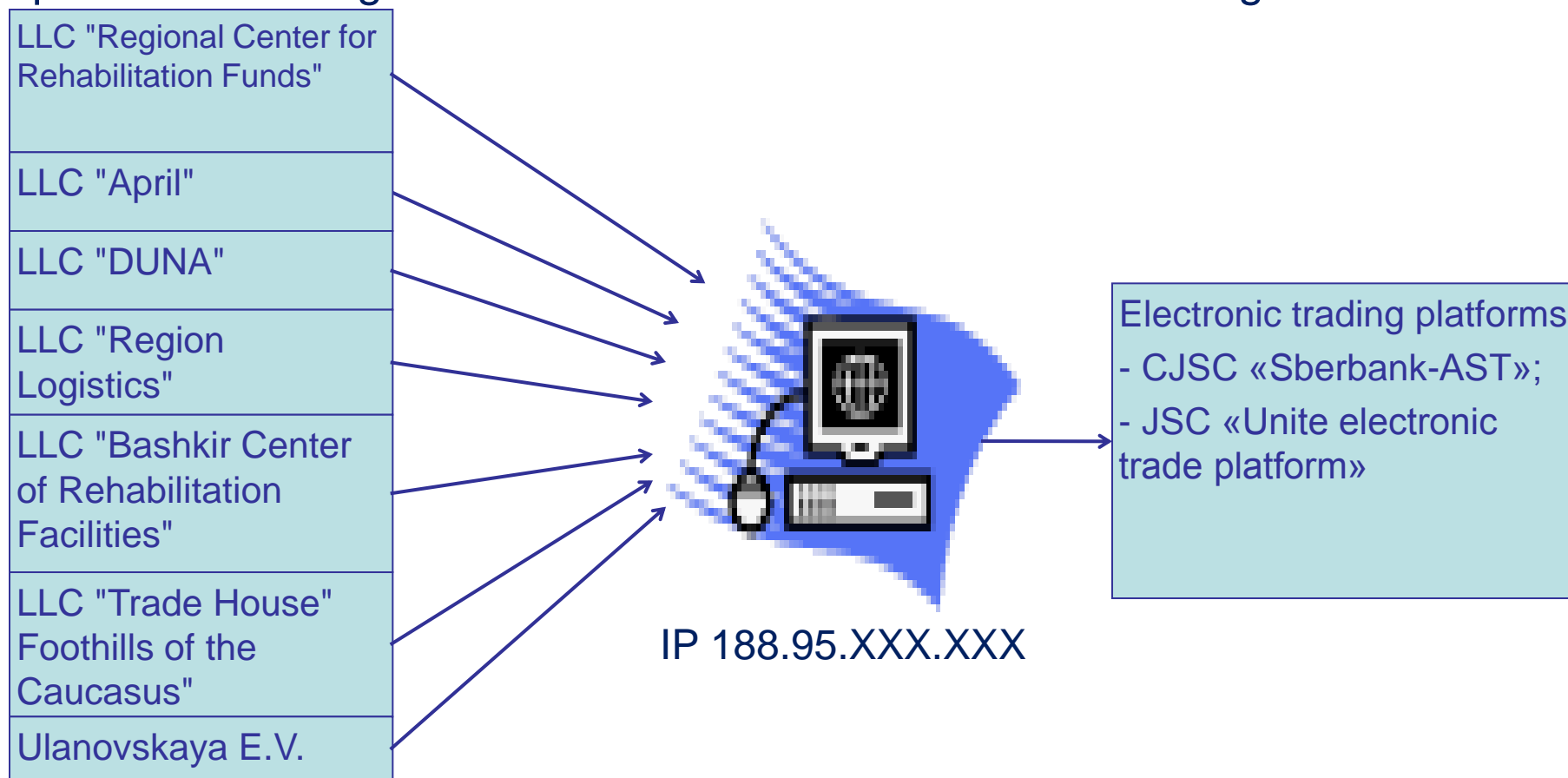
Computer of LLC «PUBLICITY BUILDING project №2»

CARTEL BY SUPPLIERS OF CARE FACILITIES

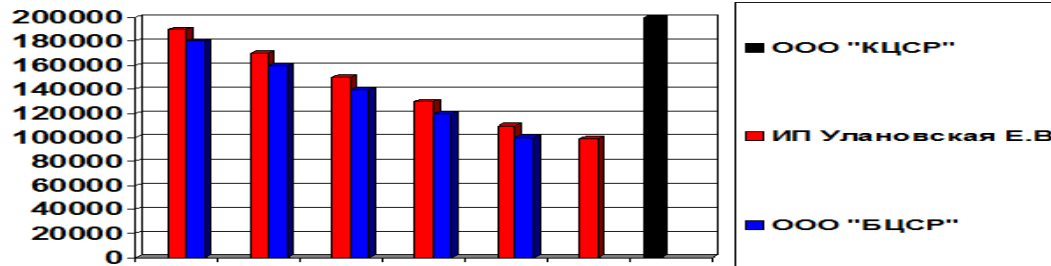
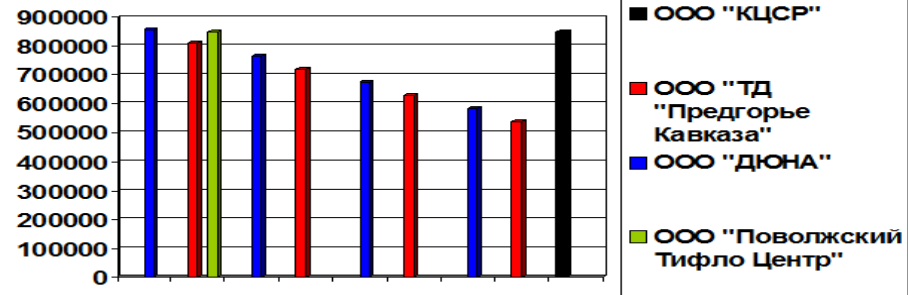
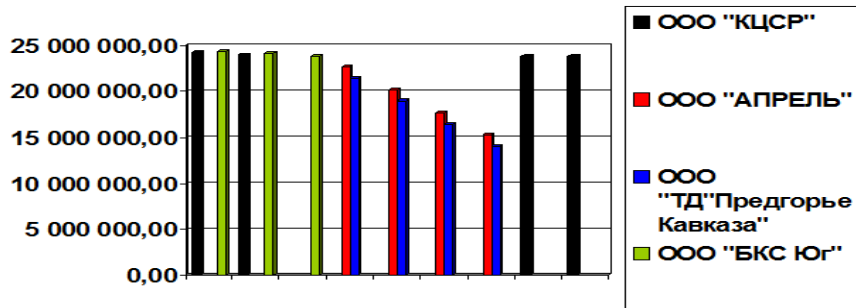
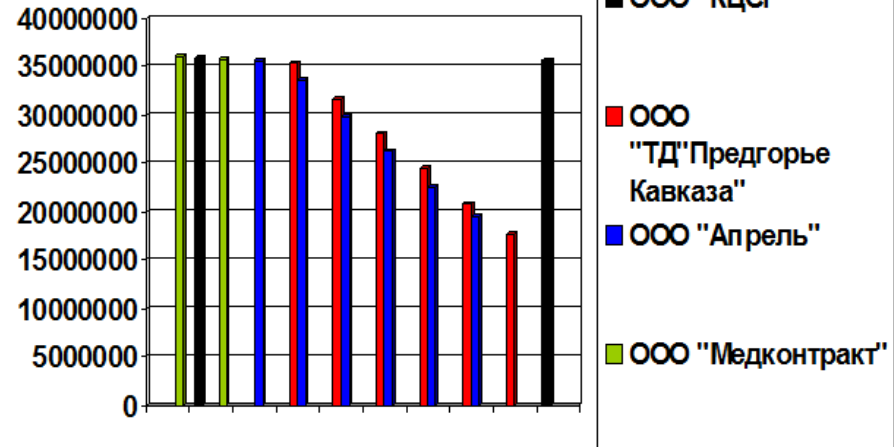
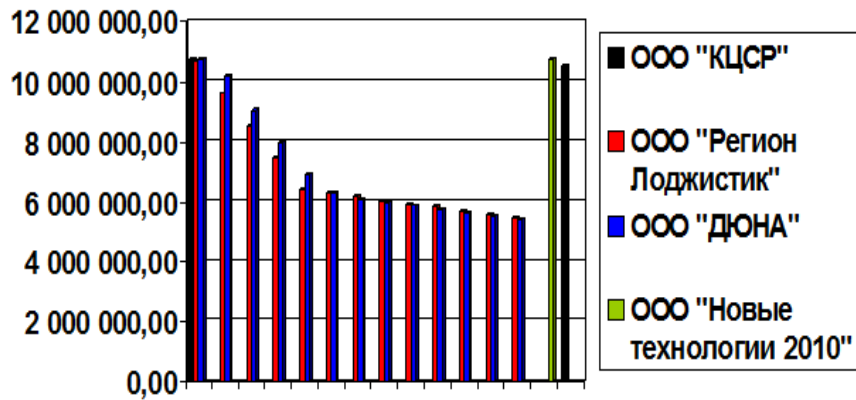
Case summary: During the electronic auction, 7 cartel members used the model of behavior which is known as «ram»: during the auction two members cartel, pretending to be actively trading among themselves, sharply lowered the price (up to 51% of the initial contract price). At the same time conscientious bidders lost interest in the bidding. Then, one of the cartel participants in the last seconds of the auction, bid slightly below the rate of conscientious participants or the initial (maximum) contract price. Next, cartel participants that took the first and the second places refused to sign the contract. Thus, a contract was signed with a third bidder of the cartel, which only slightly deviated from the initial price.

Fines: total € 153 000

During the time of the auction, Defendants signed into the electronic trading platform, placed and changed documentation and filled out applications using the same IP address. Moreover, defendants performed change of auction documentation from similar log-ins.



CASE №3 (BIDDING PROCESS ANALYSIS)

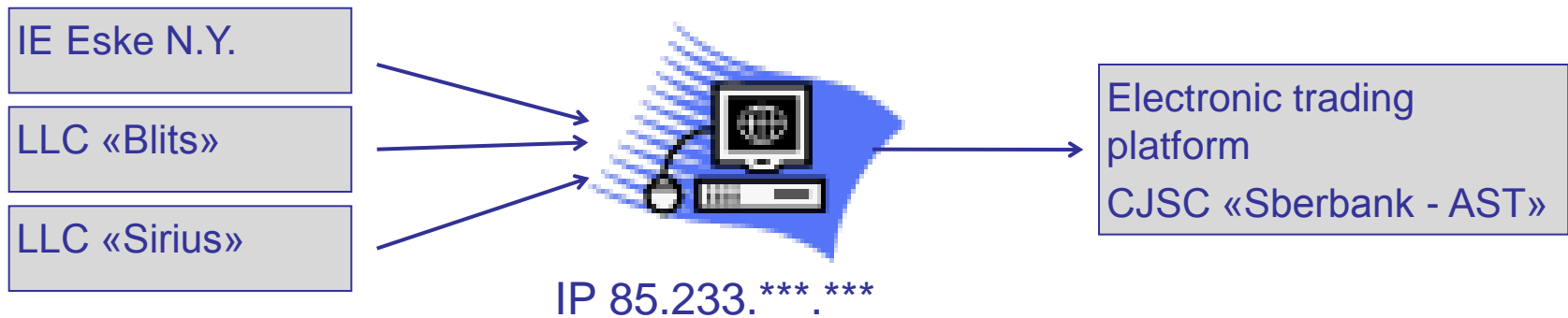


FOOD PRODUCTS FOR ENFORCEMENT AUTHORITIES

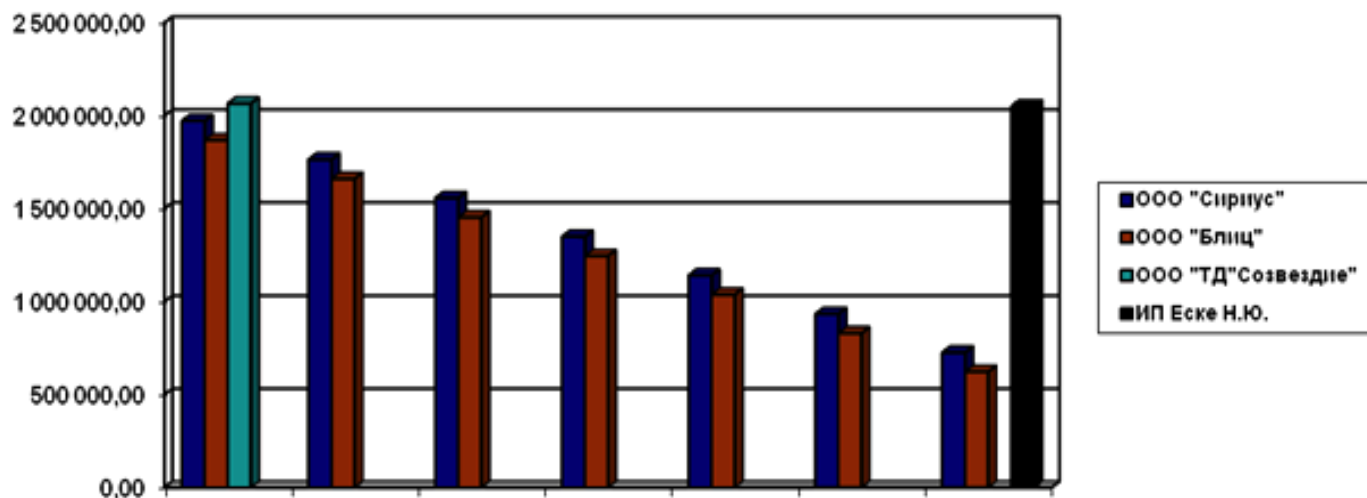
Case summary: During the electronic auction members of a cartel (IE Eske N.Y., LLC "Sirius", LLC "Blitz") used the model of behavior which, among people connected with public procurement, is known as «ram»: two members of the anti-competitive agreement during the auction, pretending active trading among themselves, sharply lowered price (up to 90 % of the initial contract price). At the same time conscientious bidders lost interest in the bidding. The third bidder- a member of the cartel in the last seconds of the auction bid slightly below the rate of conscientious participant or initial (maximum) contract price. Next cartel participants, which took the first and the second places refused to sign the contract. Thus, a contract was signed with a third bidder of the cartel, which slightly deviated from the initial price.

Evidence: information from electronic bidding platform, IP addresses of the bidders, bidding process analysis, dawn raids

Signing in the electronic trading platform during the time of the auction, all the actions of Defendants on the placement and change of the documentation, as far as filling of application constantly carried out from the same IP address.



Analysis of the price offers of the open electronic auction



Case summary: cartel to maintain prices at auction was detected, bringing together the largest Russian pharmaceutical distributors. The scheme used, when participants applied for the auction, had preliminary costs in this connection, however, then after agreement on a “allocation of biddings”, several of the cartel participants did not appear in certain auctions lots (sometimes specifically leaving the room where the auction was held on time of bidding for "strangers" biddings). It led to the conclusion of public contracts on the initial (maximum) price with the only bidders.

Evidence: medicine re-sale agreements from one auction participant to another. To observe agreement of “allocation of biddings”, sometimes the company, which had already had medicine, has to re-sale it to competitor bidder either the day before or immediately after the auction (subcontracting).

During the investigation of these cases, expert assessment of the integrity of conduct of bidders using mathematical methods were also widely used. Experts in the field of mathematics, trading, analyzed the course of trading and their results, with the help of theory of chances, game theory draw conclusions about probability of the result of bidding in the absence of cartel between the bidders.

Thank you for your attention!



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