

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

LISA WILSON-FOLEY

Criminal No. 3:14cr65 (JBA)

January 7, 2015

RULING ON DEFENDANT’S MOTION FOR A *FATICO* HEARING

In her Memorandum [Doc. # 51] in Aid of Sentencing, Defendant Lisa Wilson-Foley requests a hearing pursuant to *United States v. Fatico*, 603 F.2d 1053 (2d Cir. 1979) to determine “the value of the illegal transactions,” USSG § 2C1.8(b)(1), relevant to her guidelines calculation. The Presentence Investigation Report determined that Defendant’s base offense level under USSG § 2C1.8 should be increased by six offense levels under § 2C1.8(b)(1) and the “loss” table of § 2B1.1 because the value of the illegal transactions was over \$30,000. (Def.’s Mem. at 22; PSR [Doc. # 48] ¶¶ 37–38.) Defendant maintains that “[w]hile there is no doubt that Apple paid Mr. Rowland \$35,000,” the Court should exclude from its sentencing calculation the proportion of these payments that were for Mr. Rowland’s legitimate work for Apple. (Def.’s Mem. at 22, 20.)

Defendant is not entitled to a *Fatico* hearing, because in her Plea Agreement with the Government, which was accepted by the Court, she stipulated that Mr. Rowland was “was paid approximately” \$35,000 in 2011 and 2012 “for services rendered to the Campaign.” (Plea Agmt. [Doc. # 11] at 8 (emphasis added).) At her change of plea hearing, Ms. Wilson-Foley confirmed that she “agree[d] to what is already in the information and stipulation.” (Mar. 31, 2014 Tr. [Doc. # 23] at 30.) The Sentencing

