

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to the Estate of Claimant [REDACTED 1]¹

and to Claimant [REDACTED 2]
represented by Patrizia Licastro

**in re Accounts of Ada Lattes, Enrico Lattes, Giorgio Lattes, Leone Lattes,
and Virginia Lattes**

Claim Numbers: 210863/CN/AC; 210864/CN/AC; 212552/CN/AC

Award Amount: 2,656,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the published accounts of Ada Lattes (“Account Owner Ada Lattes”), the published accounts of Virginia Lattes (“Account Owner Virginia Lattes”), the published accounts of Enrico Lattes (“Account Owner Enrico Lattes”), the published accounts of Giorgio Lattes (“Account Owner Giorgio Lattes”), and the published accounts of Leone Lattes (“Account Owner Leone Lattes”) (together the “Account Owners”), all at the Geneva branch of the [REDACTED] (the “Bank”).²

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted two Claim Forms identifying Account Owners Ada and Enrico Lattes as her parents, Ada Lattes, née Segre, who was born on 12 May 1893 in Turin, Italy, and Enrico Lattes, who was born on 2 May 1889 in Geneva, Switzerland. Claimant

¹ In correspondence dated 6 February 2003, [REDACTED] informed the CRT that her aunt, Claimant [REDACTED 1], died on 6 November 2002.

² The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of victims of Nazi persecution (“the ICEP List”), the Account Owners were indicated as owning a combined total of twenty-six accounts. Upon careful review, and as discussed below in more detail, the CRT concludes that the Bank’s records evidence a total of ten accounts.

[REDACTED 1] indicated that her parents, who were Jewish and Italian nationals, were married on 12 December 1912 in Turin. Claimant [REDACTED 1] stated that her family resided at Via Baretti 45 in Turin, and that in 1939, due to the Italian racial laws, they fled to Argentina. Claimant [REDACTED 1] indicated that in 1951, her parents returned to Turin, where they resided until their deaths.

Claimant [REDACTED 1] submitted a copy of her birth certificate, indicating that she was born in Turin and that her parents were Enrico Lattes and Ada Lattes, and her mother's death certificate, indicating that Ada Segre, the widow of Enrico Lattes, died on 12 November 1986.

Claimant [REDACTED 1] indicated that she was born on 10 April 1920 in Turin.

Claimant [REDACTED 1]'s niece, [REDACTED], informed the CRT that her aunt died on 6 November 2002 and submitted documents that indicate that she was her aunt's sole heir. Ms. [REDACTED] indicated that Enrico Lattes lived in Paris between 1938 and 1940, and had a brother, Leone Lattes. She further stated that her paternal grandparents subsequently lived in Argentina. Claimant [REDACTED 1]'s niece submitted copies of (1) an extract of the register of Turin, indicating that [REDACTED 1], who resided at Via Baretti 45 in Turin, died on 6 November 2002, and (2) a notarized declaration of witness dated 15 November 2002, indicating that [REDACTED 1] had died, that [REDACTED 1]'s niece [REDACTED] was declared her sole heir, and that [REDACTED]'s mother was [REDACTED]. [REDACTED] indicated that she was born on 21 June 1947, in Buenos Aires, Argentina.

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying Account Owner Enrico Lattes, Account Owner Giorgio Lattes, and Account Owner Leone Lattes as cousins of his paternal grandparents, [REDACTED] and [REDACTED]. Claimant [REDACTED 2] indicated that his grandparents' cousins were Jewish, and he believed that they perished in concentration camps. According to the information provided by Claimant [REDACTED 2], his grandparents, [REDACTED] and [REDACTED], may also have been cousins. Claimant [REDACTED 2] stated that he did not know specific details about his relatives, but he believed Enrico Lattes was born either in Milan or Turin, and was the owner and director of the *Lattes Zacharia Bank* in Cuneo, Italy.

Claimant [REDACTED 2] submitted a copy of a document from the Milan office of the civil register, indicating that Claimant [REDACTED 2]'s father, [REDACTED] was born 12 July 1890 in Milan and was married to [REDACTED] on 30 March 1923 in Milan and that Claimant [REDACTED 2]'s grandmother [REDACTED] was the widow of [REDACTED] and died in Milan on 28 February 1922; a document from the cemetery of Musocco, indicating that [REDACTED] died on 28 February 1922; and a certification from the registers of Milan, relating to ten individuals with the surname "Lattes," and indicating that his grandparents, [REDACTED] and [REDACTED], were born on 25 March 1826 and 7 April 1853, respectively, both in Cuneo.

Claimant [REDACTED 2] indicated that he was born on 6 September 1935 in Milan.

Information Available in the Bank's Records

The Bank's records consist of customer cards, power of attorney forms, account-opening contracts, signature sample cards, internal memoranda, and correspondence. Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with additional documents, which consist of additional customer cards.

The Bank's records indicate that Account Owner Enrico Lattes was Enrico Lattes, who resided at 45 via Baretto in Turin, Italy; that Account Owner Ada Lattes was Ada Lattes, née Segre, Account Owner Enrico Lattes' wife; that Account Owner Leone Lattes was Leone (also referred to as Léon) Lattes, Account Owner Enrico Lattes' brother, who also resided at 45 via Baretto in Turin; that Account Owner Giorgio Lattes was Giorgio Lattes, Account Owner Leone Lattes' son, who resided at the same address; and that Account Owner Virginia Lattes was Virginia Lattes, who was the mother of Account Owners Enrico and Leone Lattes and who resided at the same address.

As discussed in more detail below, according to the Bank's records, there were three separate sets of accounts held under numbered account relationships numbered 70.259, 13.387, and 70.211.

Numbered Relationship 70.259

The Bank's records indicate that Account Owner Enrico Lattes and Account Owner Ada Lattes jointly held one demand deposit account in United States Dollars ("US \$") and one custody account, both of which were held under numbered relationship 70.259. The accounts were opened on 13 December 1938. The Bank's records indicate that instructions had been given that no mail originating from Italy was to be answered, and that correspondence was to be sent to Account Owner Enrico Lattes, *Hotel d'Albany*, rue St. Honoré 24, Paris, France. This instruction was later cancelled on an unspecified date. The Bank's records indicate that unnamed securities worth 200,000.00 Swiss Francs ("SF") had been deposited with the Bank under this account number. According to an undated notation on the Bank's records, half the funds and securities held in accounts numbered 70.211 were then transferred to accounts numbered 70.259. The Bank's records also indicate that some of the assets of an unspecified value held in accounts numbered 70.259 were deposited in a special account at the Bank's branch in London and that these assets had been withdrawn by 25 May 1939. The Bank's records indicate that the accounts numbered 70.259 were closed on 4 September 1939. The amount in these two accounts on the date of their closure is unknown. There is no evidence in the Bank's records that Account Owner Enrico Lattes, Account Owner Ada Lattes, or their heirs closed these two accounts and received the proceeds themselves.

Numbered Relationship 13.387

The Bank's records indicate that Account Owner Enrico Lattes and Account Owner Leone Lattes jointly held one custody account and three demand deposit accounts under numbered relationship 13.387. According to the Bank's records, the accounts were opened on 3 April 1929. The

Bank's records indicate that the correspondence relating to these accounts was originally sent to Account Owner Enrico Lattes in Turin, that later this instruction regarding correspondence was cancelled, and that the Bank was instructed to hold mail, except in "cases of need," when correspondence was to be sent to a Mr. or Mrs. G. Foa, of London, the United Kingdom. The Bank's records indicate that the assets from these accounts were transferred into one custody account and three demand deposit accounts that had been newly opened and held under numbered relationship 70.211 on 18 August 1937.

Numbered Relationship 70.211

The Bank's records indicate that Account Owner Enrico Lattes, Account Owner Leone Lattes, and Account Owner Virginia Lattes jointly held one custody account and three demand deposit accounts under numbered relationship 70.211. The Bank's records indicate that Account Owner Enrico Lattes and Account Owner Leone Lattes granted powers of attorney over these account to Account Owner Giorgio Lattes and to Giorgina Lattes Foa, who was Account Owner Enrico Lattes' daughter, and that these powers of attorney were cancelled on 12 January 1938. The Bank's records also indicate that another power of attorney was granted to Account Owner Ada Lattes by Account Owner Enrico Lattes, Account Owner Leone Lattes, and Account Owner Virginia Lattes on 23 September 1938.

The Bank's records indicate that on 19 December 1938 a modification was made to accounts numbered 70.211, such that Account Owner Leone Lattes and Account Owner Giorgio Lattes were the owners of these accounts, and that power of attorney was in turn granted to Account Owner Virginia Lattes. The Bank's records indicate that all correspondence pertaining to these accounts would begin with the word "NEGIO," and the Bank was instructed not to respond to any letter originating from Italy. The Bank's records also indicate that some of the assets were deposited in a special deposit at the Bank's branch in London, and that these assets were withdrawn some time before 25 May 1939. According to the Bank's records, the correspondence was to be sent to Account Owner Leone Lattes at the *Hotel St. Simon*, rue St. Simon 14 in Paris, and subsequently to addresses in Buenos Aires, Argentina. The Bank's records also indicate that correspondence sent to Leone Lattes' address in Argentina had been returned. The Bank's records indicate that the accounts numbered 70.211 were closed by November 1956, but the exact date of closure is not indicated. The amount in these accounts on the date of their closure is unknown. There is no evidence in the Bank's records that the Account Owners or their heirs closed these three accounts and received the proceeds themselves.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owners

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly identified Account Owner Enrico Lattes and Account Owner Ada Lattes. Claimant [REDACTED 1]'s parents' names and city and country of residence match the published names and city and country of residence of Account Owner Enrico Lattes and Account Owner Ada Lattes. Claimant [REDACTED 1]'s street address at Via Baretto 45 matches the unpublished street address of Account Owner Enrico Lattes, and Claimant [REDACTED 1] indicated that Account Owner Enrico Lattes and Account Owner Ada Lattes emigrated to Argentina, which also matches unpublished information contained in the Bank's records. In support of her claim, Claimant [REDACTED 1] submitted documents, including her birth certificate, providing independent verification that the persons who are claimed to be Account Owner Enrico Lattes and Account Owner Ada Lattes had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of Account Owner Enrico Lattes and Account Owner Ada Lattes.

The CRT notes that Claimant [REDACTED 1]'s niece indicated that Enrico Lattes lived in Paris, which matches the published name and an additional city and country of residence of Account Owner Enrico Lattes. Claimant [REDACTED 1]'s niece also indicated that Enrico Lattes had a brother, Leone Lattes, which matches unpublished information about this familial relationship contained in the Bank's records. The name of Claimant [REDACTED 1]'s sister ([REDACTED]'s mother), Giordina Lattes, matches unpublished information regarding the name of the person who was granted power of attorney on the customer card dated 20 August 1937.

The CRT notes that neither Claimant [REDACTED 1] nor her niece identified Account Owner Giorgio Lattes. Given that Claimant [REDACTED 1] and her niece provided extensive unpublished information about Account Owner Enrico Lattes, Account Owner Ada Lattes, and Account Owner Leone Lattes, however, the CRT determines that this does not adversely affect their identification of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leon Lattes, and indicates that his date of birth was 1890 and place of birth was Turin, which substantially matches the information about the Account Owner provided by Claimant [REDACTED 1] and her niece. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 2]

Claimant [REDACTED 2]'s grandparents' cousins' names and country of residence match the published name and country of residence of the Account Owners. In support of his claim, Claimant [REDACTED 2] submitted documents, including documents from the Milan office of the civil register, a document from the cemetery of Musocco, and a certification from the registers of Milan, providing independent verification that the persons who are claimed to be the Account Owners had the same surname recorded in the Bank's records as the name of the

Account Owners. The CRT notes that Claimant [REDACTED 2] did not provide much information regarding his relatives, that some of the information he provided about the family relationships appears to contradict the information in the Bank's records, and that his assumption about the fate of his relatives is, given the information provided by Claimant [REDACTED 1], incorrect. However, given that Claimant [REDACTED 2] asserts that he was distantly related to the Account Owners, and given the fact that he stated that members of his family resided in Turin, which is the city of residence of the Account Owners, the CRT finds it plausible that he is distantly related to them, although it is unable to determine his exact relationship to the individual Account Owners. Taking all of these factors into account the CRT concludes that [REDACTED 2] has plausibly identified the Account Owners.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that her family was Jewish and that they resided in Italy until some time in 1939, and that her parents, Account Owner Ada Lattes and Account Owner Enrico Lattes, emigrated to Argentina in 1939 due to the Italian racial laws. As noted above, a person named Leon Lattes was included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Enrico Lattes and Account Owner Ada Lattes were Claimant [REDACTED 1]'s mother and father. These documents include Claimant [REDACTED 1]'s birth certificate. Additionally, the Bank's records indicate that Account Owner Enrico Lattes and Account Owner Leone Lattes were brothers, and that Account Owner Giorgio Lattes was the son of Account Owner Leone Lattes, and by plausibly demonstrating that she is related to Account Owner Enrico Lattes and Account Owner Ada Lattes, Claimant [REDACTED 1] has also plausibly demonstrated that she is related to Account Owner Leone Lattes and Account Owner Giorgino Lattes.

Claimant [REDACTED 2]

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owner Enrico Lattes and Account Owner Leone Lattes were his distant relatives (possibly his grandparents' cousins) as noted above.

The CRT notes that Claimant [REDACTED 2] submitted copies of documents from the Milan office of the civil register, a document from the cemetery of Musocco, and a certification from the registers of Milan, which provide independent verification that Claimant [REDACTED 2]'s relatives bore the same surname as the Account Owners and that they resided in Italy.

The Issue of Who Received the Proceeds

With regard to the four accounts held under numbered relationship 13.387, the Bank's records indicate that in August 1938 the assets from these accounts were transferred to newly opened accounts held under numbered relationship 70.211. Because numbered relationship 70.211 was opened specifically to receive the assets of numbered relationship 13.387, which was then closed, these two relationships are considered to have contained the same assets, and the CRT therefore concludes that the accounts held under the numbered relationship 13.387 were closed properly.

With regard to the special account at the London branch of the Bank, which contained assets transferred from accounts held under numbered relationships 70.259 and 70.211, the CRT notes that the Bank's records indicate that this account was closed no later than 25 May 1939. With regard to the two accounts numbered 70.259, the Bank's records indicate that these accounts were closed on 4 September 1939. The CRT notes that Claimant [REDACTED 1] stated that her relatives fled Italy in 1939, but was unable to specify the month in which they fled. Therefore, it is possible that Account Owners Enrico and Ada Lattes were outside of Nazi-allied territory on the date that these accounts were closed. However, given that the Bank's records do not indicate to whom the accounts were closed, that Account Owners Enrico and Ada Lattes fled their country of origin due to Nazi persecution, that Account Owners Enrico and Ada may have had relatives remaining in their country of origin and that they may therefore have yielded to Nazi pressure to turn over their accounts to ensure their safety, that Bank correspondence addressed to the Account Owners in Argentina was returned, that Account Owners Enrico and Ada Lattes and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability, and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owners Enrico and Ada Lattes or their heirs.

With regard to numbered relationship 70.211, the Bank's records indicate that the accounts associated with this relationship were closed on an unknown date sometime prior to November 1956. Given that there is no record of the payment of the accounts held under this numbered relationship to the Account Owners, nor any date of closure for the accounts; that the Account Owners were forced to flee their country of origin; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner Enrico Lattes and Account Owner Ada Lattes were her parents, Account Owner Leone Lattes was her uncle, and Account Owner Giorgino Lattes was her cousin, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 1], as Account Owner Enrico Lattes's and Account Owner Ada Lattes's daughter, Account Owner Leone Lattes's niece, and Account Owner Giorgino Lattes's cousin, has a better entitlement to the accounts than Claimant [REDACTED 2], who is only distantly related to Account Owner Enrico Lattes and Account Owner Leone Lattes (possibly as grandson of their cousins, as noted above).

Amount of the Award

In this case, the Award is for four demand deposit accounts, two custody accounts, and one account of unknown type at the London branch of the Bank.

Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case with the demand deposit accounts and the account of unknown type, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was SF 2,140.00 and the average value of an account of unknown type was SF 3,950.00. Thus, the total 1945 average value for the four demand deposit accounts and one account of unknown type is SF 12,510.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 156,375.00 for these accounts.

With respect to the two custody accounts, the Bank's records indicate that securities worth SF 200,000.00 were deposited in custody account T.D. 70.211 on 13 December 1938, and that one-half of these securities was then transferred to custody account C.L. 70.259. Thus, the value of each custody account as of 13 December 1938 was SF 100,000.00, for a combined value of SF 200,000.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 2,500,000.00 for these two accounts.

Consequently, the total award amount is SF 2,656,375.00.

Division of the Award

According to Article 23(1)(c)-(e) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have

submitted a claim, in equal shares by representation; if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation; and if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation.

In this case, Claimant [REDACTED 1] was Account Owner Enrico Lattes's and Account Owner Ada Lattes's daughter, Account Owner Leone Lattes's niece, and Account Owner Giorgino Lattes's cousin, whereas Claimant [REDACTED 2] is only distantly related to Account Owner Enrico and Leone Lattes (possibly as grandson of their cousins, as noted above). Accordingly, Claimant [REDACTED 1] is entitled to the entire award amount, and Claimant [REDACTED 2] is not entitled to share in the award.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
28 June 2006