

The marriage of Cathy L. Reimann and James C. Reimann was dissolved, and as a part of the property disposition, the trial court determined that two 529 educational accounts (“529 accounts”) created by James after the petition for dissolution was filed should not be dissolved. On appeal, we concluded that the trial court had abused its discretion when it allowed the 529 accounts to remain intact. *Reimann v. Reimann*, No. 29A04-0512-CV-694 (Ind. Ct. App. Aug. 15, 2006). We reversed the trial court’s determination and remanded with instructions to set aside one account to each party as sole and separate property. James now petitions for rehearing, alleging that we failed to consider his contribution of approximately \$20,000.00 into the 529 accounts, which represented a portion of his anticipated share of the proceeds from the sale of the marital residence. On further consideration, we grant rehearing.

During the marriage, Cathy and James opened a Schwab One account and set it up to fund the children’s college education. At the time of the dissolution petition, the balance of that account was \$91,749.04. When the marital residence was sold, the proceeds of \$108,653.00 were placed in the Schwab One account, giving a total balance of \$200,402.04. On May 6, 2005, James transferred \$110,000.00 out of the Schwab One account and placed the money into two 529 accounts, with \$55,000.00 in each account. Because this transfer was made without the knowledge or consent of Cathy and because it was done in violation of a signed Preliminary Order, we concluded that the transfer encumbered marital assets and that the trial court abused its discretion when it allowed the 529 accounts to remain intact.

James contends that the \$110,000.00 transfer consisted of the initial \$91,749.04 from the Schwab One account, which had been previously set up for the children’s college

education, and approximately \$20,000.00 of what he anticipated would be his share of the proceeds from the sale of the marital residence. Because this approximately \$20,000.00 used to fund the 529 accounts was his sole and separate property, James claims that Cathy is not entitled to an entire 529 account, which contains \$55,000.00, as her sole and separate property. We agree and instruct the trial court on remand to divide the two 529 accounts by awarding Cathy \$45,874.52, which is fifty percent of the original \$91,749.04 that was in the Schwab One account, plus accrued interest on that amount from May 6, 2005, the date that James transferred the money into the 529 accounts, and the balance of the 529 accounts to James. We reaffirm our original holding in all other respects.

BAILEY, J., and CRONE, J., concur.