

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

CREWS & ASSOCIATES, INC.

PLAINTIFF

v.

Case No. 4:10-cv-1098 BSM

NUVEEN HIGH YIELD MUNICIPAL BOND FUND et al.

DEFENDANTS

ORDER

Nuveen High Yield Municipal Bond Fund (“Nuveen”) moves [Doc. No. 46] to dismiss the declaratory judgment action based on an unconditional covenant not to assert a claim under Section 10b of the Securities Exchange Act of 1934. Crews & Associates (“Crews”) objects stating that the covenant is not a final judicially enforceable agreement. The motion is DENIED.

The order [Doc. No. 36] entered on March 29, 2011, declined to dismiss the claim without a judicially binding agreement on the issue. The current unilateral promise does not represent a judicially binding agreement between the parties. As such, Nuveen is still entitled to pursue declaratory judgment on the Section 10b claims, and the motion to dismiss [Doc. No. 46] is DENIED.

IT IS SO ORDERED this 28th day of June 2011.


UNITED STATES DISTRICT JUDGE