Transfer to a new forum under the federal venue statute requires that the transfer be "[f]or the convenience of the parties and witnesses [and] in the interest of justice." 28 U.S.C. § 1404(a). Citibank and Citigroup bear the burden of establishing by a preponderance of the evidence that transfer is necessary. *In re Charles Schwab & Co. Sec. Litig.,* 69 F.Supp.2d 734, 735 (D.Vi.1999) (citing *Shutte v. Armco Steel Corp.,* 431 F.2d 22, 25 (3d Cir. 1970)). Although a trial judge is afforded great discretion in deciding this motion, he or she should not disturb a plaintiffs choice of forum unless the balance of factors strongly weighs in favor of transfer. *Jackson v. Executive Airlines, Inc.,* Civ. No.2000-121, 2001 WL 664673, *2, 2001 U.S. Dist. 8004 LEXIS at *7 (D.V.I. June 7, 2001). A defendant seeking a transfer will not overcome this presumption unless the defendant can prove that the "balance of convenience of the parties is *strongly* in favor of defendant." *Shutte.,* 431 F.2d at 25. Among the factors to be considered in making this determination are:

> (1) plaintiffs choice of forum; (2) defendant's preference; (3) where the claim arose; (4) convenience to the parties; (5) convenience to witnesses—but only to the extent that the witnesses may actually be unavailable for trial in one of the fora; (6) location of books and records; (7) practical considerations that could make the trial easier, more expeditious, or less expensive; (8) congestion of the possible fora; and (9) the familiarity of the trial judge with the applicable state law in diversity cases.

See generally Jumara v. State Farm Ins. Co., 55 F.3d 873, 879-80 (3d Cir.1995).

Considering the totality of the circumstances surrounding this case, I make the following findings. First, Epstein and Financial Trust have selected this forum, and they are residents of the Virgin Islands with strong ties to this community. Epstein owns a seventy-acre island, and he and Financial Trust employ some twenty people. (Pls.' Mem. Of Law in Opp'n to Mot. To Dismiss, Epstein Decl. ¶¶ 2, 4-5.) It is important that local plaintiffs with grievances against defendants subject to this Court's jurisdiction be permitted to seek redress here in the Virgin Islands. As already noted, no forum selection clause binds the parties to bring suit in any particular jurisdiction. The defendants contacted the plaintiffs and entered into negotiations concerning the AIG investment while they were in the Virgin Islands, and at least one agreement was addressed to the plaintiffs through transmission to the plaintiffs' attorneys in New York, intending that it be sent to the Virgin Islands. I do not find that the defendants will suffer any great inconvenience by litigating this matter here. As the plaintiffs point out, most of the documents needed to try the case have already been filed in this Court, and the defendants are currently litigating other cases in this Court. Moreover, the defendants have not stated that their key witnesses are unable to travel to the Virgin Islands. *See Jumara,* 55 F.3d at 879. Finally, it is not at all clear that New York law must be applied to determine the causes of action raised by plaintiffs, but to the extent that another jurisdiction's jurisprudence does apply, this Court is fully capable of applying such law. For the foregoing reasons, I find that the requisite factors weigh in favor of litigating this matter in the Virgin Islands, and thus I will deny the motion to transfer.

D. THE AMENDED COMPLAINT ADEQUATELY STATES CLAIMS UPON WHICH RELIEF MAY BE GRANTED UNDER FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)

The defendants aver that I should dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6) because the amended complaint fails to state a claim upon which relief may be granted. In considering a Rule 12(b)(6) motion, I accept all allegations in the complaint as true, and draw all reasonable inferences in favor of the non-moving party. *In re Rockefeller Ctr. Props., Inc.,* 311 F.3d 198, 215 (3d Cir.2002). "The inquiry is not whether plaintiffs will ultimately prevail in a trial on the merits, but whether they should be afforded an opportunity to offer evidence in support of their claims." *Id.* (citing *Scheuer v. Rhodes,* 416 U.S. 232, 236, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974), *overruled on other grounds, Harlow v. Fitzgerald,* 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982)). The defendants raise several arguments in support of their motion, each of which I address in turn. (Mem. of Law in Support of Defs.' Motion to Dismiss at 36-52.)

1. *VIRGIN ISLANDS LAW GOVERNS THIS LAWSUIT*

Throughout their brief, the defendants rely on New York law to support their 12(b)(6) motion. Their reliance on New York law, however, is misplaced. In the Amended 1999 Note, the parties stipulated only that

> [t]his note shall be governed by, and construed in accordance with, the laws of the State of New York, including matters of construction, validity and performance, without giving effect to principles of conflicts of law ....

(Mem. Of Law in Support of Defs.' Mot. To Dismiss, Ex. D at 10.) The issues raised by the plaintiffs, however, do not involve the "construction, validity and performance" of the note; rather, they involve allegations of fraud, misrepresentation, misinformation, and breach of a fiduciary duty of the defendants in advising the plaintiffs about the AIG-managed fund. Accordingly, I find that New York law does not govern these claims, and instead shall look to Virgin Islands law to determine whether the plaintiffs have stated claims cognizable in this jurisdiction.

2. *NEW YORK'S MARTIN ACT DOES NOT APPLY TO THIS LAWSUIT*

The defendants aver that the Martin Act, New York General Business section 352 *et seq.,* bars the plaintiffs' claims for negligent misrepresentation (Count IV) and breach of fiduciary duty (Count V) because, under the Act, only New York