

Who's the boss?

Krissy Clark: Hey just a quick note to say this is the second episode in a 3 part series. You'll love it even more if you start at the beginning.

Jan-Pro Ep 2

GPS: Take exit 39 on right to Mount Vernon Avenue, then keep right.

Krissy: So this is the exit that you would always take?

Jerry: This is the exit. Yeah, it's coming back. The memories.

Krissy Clark: On a rainy day back before the pandemic - when we could still be inside the same car - Jerry Vazquez and I were driving south on the 215 freeway, east of LA, in Jerry's old, faded gold Honda, which was badly in need of new shocks.

Jerry: Bump bump bump ...when it starts to do...you hear that sound?

Krissy: Oh. Is that what that means?

Jerry: That's the shocks and the motor mounts that need to be replaced.

Krissy Clark: I'd asked him to take me by that daycare he used to clean, just so I could see it. The one with all the poopy diapers.

We were retracing the route that he used to drive every weeknight, when he was a janitor with the cleaning company Jan-Pro....and as we got closer, he was starting to look nervous.

Krissy: What's going through your mind right now?

Jerry: I don't want to go and clean the building. *laughing*

Krissy Clark: He was surprised how quickly the dread came flooding back, even more than a decade later.

Jerry: You start to get a little bit of a headache. It makes your heart pump. Kinda makes you sick. And I mean I had no problem cleaning the messes or anything. It was just the amount of money was killing me, it was like, ah, I wanna pull my hair out.

Krissy Clark: Back in 2007, Jerry was shocked and depressed when he discovered how extremely little he was making cleaning toilets and mopping floors. About five bucks an hour on

average, less than minimum wage. It's against the law to pay an employee that little. It's wage theft.

But, of course, according to Jan-Pro — the company he was with — Jerry was not an employee. He was an independent contractor. The owner of a janitorial franchise. And in that light, the fact that he was making barely any money back then wasn't all that surprising. It was early days. He'd just recently started his business.

There's that trope, right? The scrappy entrepreneur who lights out on his own, barely surviving on instant soup and a dream. There are lots of entrepreneurs who make no money in the first few years of starting their business.

It's a trade off. When you're an employee, you get more protections and security from the company you work for. Like, the security that they'll pay you at least a minimum wage. But you also have less power. You're largely controlled by someone else.

When you go into business for yourself, you're turning away from all that. You're choosing more power over your destiny, more flexibility, but also more risk.

Sometimes the risk is worth it, and your business succeeds. Sometimes things don't work out. Maybe you weren't cut out to be an entrepreneur.

So when Jerry was driving that route to clean the daycare five nights a week, with a headache and a pumping heart, this question started to form in his head. He'd think about how much he'd paid Jan-Pro for his franchise -

Jerry: Five thousand, and they...they were still gonna take another four thousand off my paychecks.

Krissy Clark: So he could get access to these jobs cleaning toilets and scrubbing floors for barely any money. And he'd wonder, was he just a struggling entrepreneur, having a hard time starting up his business? Or was the dream of building a business with Jan-Pro too good to be true?

Welcome to the Uncertain Hour. I'm Krissy Clark, and this season we're looking at this thing we used to call employment, what happened to it and why it matters.

Last episode, I told you about the dream Jerry had of leaving employment behind, starting his own janitorial franchise business. Becoming his own boss, having more flexibility.

It's a dream a lot of companies are using to draw people in these days. Come work for us not as an employee, but as an independent contractor.

And for the first few months Jerry believed in that dream. That he was an independent contractor in business for himself. When his business wasn't doing well, he blamed himself for not knowing how to run his business.

But the story I want to tell you today is how he came to see what was going on in a completely different way. And, in the process, became a different person.

The same day Jerry took me to the preschool with all the poop... I came over to his house. His mom was home too.

Krissy: Hi...

Isabelle: Hi!

Jerry: That's ah...my mom, Isabelle.

The place is small, and super tidy.

Mom: That's Jesus Christ in the picture.

Jerry: That's the, uh watchamacallit.

Krissy: The Last Supper.

Jerry: The Last Supper.

Mom: Mmmhmm.

In the living room, on top of the tv, there's a little altar.

Mom: And then there's a candle. there's an angel.

And in the garage, there are boxes and boxes of paperwork from his days at Jan-Pro.

These boxes are full of memories. A few of them are happy. Like, all the gushing reviews Jerry got from his cleaning customers. He pulled out a stack of comment cards that he'd kept.

Jerry: I just put them in a ziplock bag.

Krissy: And so the first one is from super cuts.

Jerry: That's from supercuts

Krissy: And you got a ten.

Jerry: She gave me a ten.

Krissy: And it says Jerry is...

JERRY: Great...Jerry is great. Congratulations.

Krissy: And the great is in...

Jerry: Orange highlighter.

Krissy: Really great. *laughing* Highlighted great.

There were notes from the Supercuts office he cleaned. The Catholic Charities office. The daycare.

Krissy: Another fabulous month thanks! *shuffling paper* We have a keeper, smiley face. *shuffling paper* Jerry is very trustworthy and always willing to do anything he is asked. *shuffling paper* Jerry, thanks for working so hard, we really appreciate it. *shuffling paper* Keep him, he's a great worker.

But there were other things in his boxes of old Jan-Pro paperwork that were NOT so great.

Krissy: So, this is. Describe what? Describe what you're...what we're looking at...

Jerry: Okay. We're looking at a original check and then the bottom's a pay stub.

Krissy Clark: Jerry had spent a lot of time studying his monthly pay statements from Jan-Pro. He read them like tea leaves, trying to figure out why things were going so badly, and what they meant for his future.

The franchise plan he'd bought, remember, claimed Jan-Pro would offer him enough cleaning jobs to be worth twenty thousand dollars a year, in gross "income". That broke down to a little less than seventeen hundred dollars a month.

The pay statement Jerry showed me for the cleaning work he did in September 2008 showed he actually made slightly more than that in gross revenue that month. Seventeen hundred and twenty-six dollars.

But of course, Jerry didn't get all that money. Because remember, first Jan-Pro took a bunch of deductions from each of his monthly checks. More than four hundred and fifty dollars in deductions. The Jan-Pro master franchisee, the middle man, kept some of that money for itself and then paid some up the chain to the top of the pyramid to the parent company, Jan-Pro Franchising International.

After all that money was taken off the top each month, that left Jerry with

Jerry: One thousand, two hundred seventy four dollars and seventeen cents.

Krissy Clark: And Jerry split that money with his mom. The jobs were just too big for one person, so she started doing the work WITH him each night. When you do the math, divide all the hours they were each working cleaning the buildings into the amount they were getting from Jan-Pro after all the fees and payments were taken out, their hourly rate came down to - like Jerry said - about five dollars an hour, or sometimes less. And that wasn't even counting taxes.

The deductions Jan-Pro took off his check that made his pay so low were for different things.

There were payments for the loan Jan-Pro had given him, at ten percent interest, to buy the franchise in the first place, and the cleaning accounts that were supposed to come with it.

And then there were all the monthly fees they deducted. He lost almost 20 percent of his gross revenue in fees. Royalty fees for letting Jerry use the Jan-Pro name. Fees for an insurance plan that Jan-Pro had sold to Jerry, to cover any damages or injuries his cleaning business might be liable for. Fees for "managing" Jerry's business, things like communicating with customers, billing and collecting payments from them.

Jan-Pro framed this stuff as a service they were offering him - headaches they were taking care off so Jerry could just focus on cleaning. But soon, Jerry realized, actually he would've rather done a lot of that stuff himself.

Because this was his own janitorial business after all.

Jerry: And you go into it with that mentality.

Krissy Clark: He was supposed to be thinking like an entrepreneur. If he wasn't doing well, he needed to figure out what he could do to run things better, make more money.

Jerry: I was like maybe there's a learning process. Maybe i'm doing something wrong. So I need to keep at it, keep doing it, see what I can do to improve.

Krissy Clark: His first strategy was pretty simple. Go faster.

Jerry: The faster you do it, the faster you're out of there.

Krissy: The more you can actually...the more money you can be making for your time.

Jerry: Exactly.

But he couldn't cut corners, because if Jerry got too many complaints from customers, Jan-Pro could take him off an account. Or, kill his franchise altogether.

So, to save time cleaning, while still doing a good job, Jerry experimented with various "performance optimizing" techniques. Like, not going pee.

Jerry: Time's going by and you're trying to rush and so you're like ok, I'm going to hold off going to the bathroom, drinking water, I need to go as fast as I can.

Krissy: You would hold off on doing that stuff?

Jerry: You hold off as long as you can and then it's like ok I gotta go.

Krissy Clark: There was also good old-fashioned running from task to task. But Jan-Pro janitors are supposed to use these vacuum cleaner backpacks. They can get heavy. and cumbersome,

Jerry: You tend to bump into things.

Krissy Clark: So running only gets you so far. You can only hold your pee for so long. Jerry realized there was only so much "efficiency" he could wring out of his work.

Jerry: Once I would finish a certain area I would take a look and be like oh man, so much time went by. I'm like ok I gotta go faster, but after a while you're like ok this is useless. I just can't go any faster.

Still, Jerry kept at it, tried to find other ways to improve. He tried to find other people to do some of the jobs, but couldn't find anyone else who wanted to do the work for so little money, besides his mom.

He bought books on how to run a janitorial business. He bought software that estimated how long it should take to clean a building, depending on the square footage. He did market research - called around to other janitorial businesses to see how much they were charging for similar jobs.

And soon, Jerry decided, the bigger problem was that Jan-Pro was just charging customers way too little for the amount of work he had to do to get their buildings clean.

Or, as he and his mom put it when they talked to each other in spanish, the accounts were...

Jerry: Mal Pagados. Which means, yeah, badly underbid.

Krissy Clark: So, Jerry decided, ok, I'm running my own business, I need to charge more for my work. But trying to do that had its own set of issues.

Because remember, part of Jan-Pro's whole franchise model was that it was the regional master franchisee who managed stuff like that. They found Jerry customers and negotiated prices for him.

Jerry says Jan-Pro discouraged him from being involved in the bidding and negotiating process or talking to customers at all.

Like this one time, when he says he came with a Jan-Pro salesperson to meet with a customer -

Jerry: It was Jan-Pro doing all the talking. One time I wanted to say something and the salesperson gave me this look like, be quiet. And I was like ok, um....

Krissy Clark: And then there was the trouble with the business cards. Jerry made his own homemade business cards - little pieces of paper with his name and phone number - and started tucking them inside the cleaning log books where customers left notes for him.

Jerry: So that they would call me directly if they had any questions, if the customer had any questions or problems. I figure hey, it's supposed to be my account, i'm supposed to take care of it, so call me.

But, Jerry says the Jan-Pro rep who was managing his accounts made it pretty clear that he didn't like Jerry's business cards being there.

Jerry: Whenever he had to check on me, he would come back, take my piece of paper out and then he would put his business card back in there.

Krissy: So that was like a little silent war that was happening between you guys.

Jerry: Yeah, exactly.

Krissy: You would put yours in, he would take it out, put his in. **laughing**

Jerry: So yeah, if something happens, they were calling Jan-Pro and then Jan-Pro's gonna scold us. So it's like, hey i'm not even being considered as the owner of this franchise. It's like they're calling like my boss and then my boss is calling me, and now he's gonna punish me.

On top of that -- he felt like had to say yes when Jan-Pro offered him a building, even if he could tell it was gonna pay too little for the amount of work involved.

Jerry: They don't ask you, would you like this building...it's like ok here's this building, you have to go clean this building.

Krissy Clark: Jerry didn't have much of a choice, because if he did say no to a building Jan-Pro was still allowed to count it toward the twenty thousand dollars in "total yearly income" that Jerry had paid for in his franchise plan. And they didn't have to offer him another building to make up for it. Meaning, even though he'd be making less money than Jan-Pro had promised?

Jerry: It counts as fulfilling our agreement with you.

Krissy Clark: Jerry's list of frustrations grew and grew. Things that made Jerry feel like he wasn't really in control of his own business.

The constant checking up on him.

Jerry: They would go and check my accounts every month. They would say, hey you need to dust here, or somewhere else.

Krissy Clark: Or The fact that he could get fined for things like missing a day of work, or not labeling his cleaning bottles properly. Or not wearing the right thing.

Jerry: if you're not wearing your Jan-Pro shirt they could fine you fifty bucks for that. Not wearing your badge, it's a fifty dollar fine, so you have to use the equipment they gave you. You have to wear their shirt, you have to go to these places that they tell you to.

And sure, this was supposed to be a franchise, so he understood that there were certain rules Jan-Pro wanted him to follow to protect the integrity of their brand.

But, little by little all this stuff taken together was making something clear to Jerry.

He'd spent all this money buying a franchise so he could, in theory, manage his own business. Be independent.

But given how much control Jan-Pro had over so many different aspects of his business, it felt to Jerry like there wasn't much left for him to actually manage, that would make any difference to his success.

It was embarrassing to admit it, and broke his heart, but Jerry says after all his dreams of entrepreneurship, after all the money he'd borrowed from his parents and paid Jan-Pro to start his own business and become a franchise owner...

Jerry: It felt like I wasn't a franchise owner. It felt like I was an employee!

Krissy Clark: And the more he thought about it, if he had been an employee, in a lot of ways, he decided, his life would have been better under the circumstances. Jan-Pro would have to pay him at least minimum wage, pay him over time, pay him for the time he spent prepping his cleaning supplies and washing all his rags and mops at the end of the day, and driving between different cleaning jobs each night. And, according to state law in California, where Jerry lives, they'd have to give him paid sick days, and worker's comp benefits. They'd have to cover his expenses for buying cleaning supplies and his Jan-Pro uniform.

If he'd been considered an employee Jan-Pro would have had to do all that stuff. But since he was supposedly the owner of his own business, Jan-Pro did not.

And this epiphany made Jerry start doing things he never thought he'd do.

That's coming up after a break.

BREAK

Krissy Clark: Jerry's the kind of person who likes to avoid conflict and drama, going all the way back to that time in grade school when his teacher, and everybody else, started calling him Jerry, instead of Gerardo and he let it slide, as much as he loved his given name.

And at first, he brought that same kind of grit your teeth and bear it attitude to what was going on with this franchise he'd bought from Jan-Pro.

True, he was barely making any money doing the cleaning. But, he talked it over with his parents and they decided, give it a little more time. Work hard. Maybe things will sort themselves out.

Jerry: My dad was, you know, just like, keep at it. Eventually it's gonna get better.

Krissy Clark: Jerry and his mom felt proud of the work they were doing.

Isabelle: Tried very hard, the best that we can, to leave everything nice and clean.

Krissy Clark: But with such low pay-- the money situation in his family was getting *really* tight.

Jerry: We were just barely getting by you know. Even the little bit of money that Jan-Pro was paying us just goes to paying bills. Whenever I'd be awake I'd be thinking about this the all the time. It was just so frustrating. It affects your whole

life. You're never really advancing. Not getting ahead in life and it's just depressing. Stressful.

Krissy Clark: Jerry and his mom lurched along doing this work for about a year. Working nights, often twelve or thirteen hours at a time, til three or four in the morning. Sleeping during the day. Jerry did some odd jobs on the side to help scrape by: yard work, helping clean out a few people's garages. But during that time, three things happened....

The first thing was small, but it cracked something open in Jerry. It started when, one day, Jerry called up his regional Jan-Pro master franchise office and tried to explain the dilemma he was in. They were supposed to be providing him training and support for his franchise, so maybe he could get some advice. Or convince them to raise the rates on some of his buildings.

As an example, he told them about the day care account. The one where he had to clean up after a hundred kids every night. All their diapers, and food and sand box droppings.

It took so long to clean, Jerry explained, he was making barely any money. How should I deal with this? What's your advice?

Jerry: I was like, tell me what I'm doing wrong, or what I can do to make this faster.

Krissy Clark: Jerry says a Jan-Pro guy came down to the day-care one day, to take a look at what Jerry was facing.

Jerry: Kinda, he was there for like 3 minutes.

Krissy Clark: Three minutes. Then, the guy told Jerry, I've got the solution to your problem. Here's what you need to do. Don't clean the corners of the building so often. Get someone to,

Jerry: Strip and wax the floors.

Krissy Clark: Because if the floors got stripped and waxed, that would make mopping easier. And when you do mop, use two buckets instead of one.

That was it. That was all the advice the Jan-Pro guy gave him, for dealing with the daycare.

Krissy: And what's going through your head as he's saying that?

Jerry: I'm like... this is bull.

Krissy: This is bull. *laughing*

Jerry: Yeah. Just.....bull.

Krissy Clark: He felt blown off. Not taken seriously. But the more Jerry thought about it, the more he realized, maybe it's not that surprising that Jan-Pro didn't have that much to offer when it came to helping him figure out how to make his business work.

It was no skin off their back how little he was making. They didn't do the work.

He was starting to feel angry now. He talked things over with his parents again.

Isabelle: **We just talking, that's not ok, together. And I said no, we're not gonna do it no more. We gotta stop.**

Krissy Clark: And as much as Jerry does not like conflict, he decided he and the folks at Jan-Pro needed to have a talk.

Jerry: **I need to see if I can get my money back and get out of this. Cuz it doesn't make any sense.**

Krissy Clark: And that's when the second thing happened. He mustered all his energy, walked into the Jan-Pro master franchise office, and approached one of the managers.

Jerry: **I did not want to get into a yelling or screaming match. That's not gonna lead to anything. So I was just being serious with her, talking to her, having a serious conversation. I go, this is how long it takes. These buildings are underbid. And I told her I would like my money back.**

The five thousand dollar down payment he'd given Jan-Pro to buy his franchise. He wanted to give back his franchise, and get back that money.

Jerry: **She was like well, we can't do that. You need to keep working and you need to fulfill your fulfillment towards us.**

Krissy: **So, first you said i want my money back,**

Jerry: **Exactly.**

Krissy: **And then you were told we're not going to give you your money back, and actually you still owe us...**

Jerry: **Four thousand dollars.**

Krissy Clark: That \$4,000 loan they'd given him, he still hadn't paid it all off. But the manager said even if he wanted to stop doing his franchise, he still owed Jan-Pro what was left on that loan.

Jerry: That pissed me off. That made me so angry

Angry at Jan-Pro, angry at the manager, but angry at himself, too.

Jerry: It's embarrassing. I mean, I should have looked more into it. Why did I fall for this? And it's just... It's tough.

Krissy: What do you look like when you're angry? Because you do seem so... tempered.

Jerry: Well I do feel like my heart just starts to race. Just feels like you want to hit the wall or something. It's just very frustrating. You kinda do feel like you're going up against this big company and you don't have the power to do much.

Krissy Clark: But Jerry says he held his fury inside.

Jerry: And I just, I didn't say bye or anything. I just walked out.

Krissy Clark: I should say, we reached out to the Jan-Pro manager that Jerry spoke to that day and others who worked at the master franchise office, like the guy who gave Jerry the advice about the two mopping buckets and stripping and waxing the floors. They didn't get back to us.

We also reached out to the guys who started the master franchise Jerry worked out of - they declined to be interviewed, though my producer did speak to one of them briefly. A guy named Jack Pearce, and he said the Jan-Pro model has, "worked phenomenally well and given people opportunities to work independently."

We also reached out to Jan-Pro Franchising International, the parent company, and they declined to comment.

But I still really wanted to talk to someone who could help me understand Jan-Pro's perspective on all this. And that's when I met Karen Miller, who we heard from last episode. She used to own a Jan-Pro master franchise in Michigan, that she'd bought from the parent company. She then sold unit franchises to people like Jerry, and negotiated and managed their cleaning accounts.

So I put some of Jerry's frustrations to Karen, expecting her to push back. Defend Jan-Pro. But... she did not.

Like Jerry's sense that accounts could be badly underbid, that no matter how fast you worked you couldn't do the work fast enough to make your hourly rate even add up to the equivalent of minimum wage. Karen didn't miss a beat. She says she definitely underbid accounts.

Karen: Absolutely, there was underbidding. Absolutely.

Krissy Clark: She says because master franchisees like her had invested so much money themselves to buy franchises from the parent company, there was a lot of pressure to make sure they secured enough cleaning contracts to keep money coming in.

Karen: Our overhead and fixed costs were so great that, you know, you just kind of had to do what you had to do to get an account.

Krissy Clark: And one of the things that Karen could do was bid cleaning contracts really, really low. Precisely because the people who would actually be cleaning the buildings, people like Jerry, were considered independent contractors, not Jan-Pro employees. That basic fact meant that, when Karen was bidding on cleaning contracts, she didn't have to worry about whether or not the price she was charging would be enough to make sure the janitors could make at least minimum wage. That was part of her competitive advantage. You can undercut other companies that use employees, who have to be paid a minimum wage.

Karen: If somebody would say, well, you know, we have a bid from this company and they're here, you know, can you match this? So yeah, there was then adjusting.

Krissy: Because you were trying to be competitive to get the account.

Karen: Yep. Exactly. I mean, sometimes we still wouldn't get it or we'd have to go down even lower to get an account.

Krissy Clark: Karen told me that she quickly realized what this driving down of prices meant for the janitors she had sold franchises to. The realization crystalized for her in the middle of the night one night, when she was on her hands and knees, at an Outback Steakhouse.

Karen: Two o'clock in the morning on the floor with a backpack vacuum cleaner sucking up crayons and rolls, I mean, I can still picture it.

Krissy Clark: She was there helping one of her unit franchisees clean the restaurant. He'd gotten a lot of complaints saying he wasn't doing a thorough enough job. So she came down to see what the problem was.

Karen: He was just overwhelmed. It was a huge job. And he wasn't getting enough to be able to pay somebody else to help him. They weren't happy with the work he was doing.

Krissy: So you like he'd been getting complaints and he was saying, listen, for the amount of money I'm making I can't, like, this is as good as I can do it.

Karen: Right. And I was trying to help them to figure out, you know, what are you missing? What, you know, what can we do to, you know, make this easier on you, make the client happy?

Krissy: Yeah. What conclusion did you come to as you were on the floor sucking up crayons?

Karen: Yeah. I was just you know, it was like, this sucks. Literally.

Krissy: No pun intended.

Karen: No. No. Exactly. It just can be overwhelming with the... if you look at a cleaning schedule, all the things that have to be done, you know, getting the dusting the corners and the vents and doing the baseboards and, you know, vacuuming wall-to-wall. And I mean, just all of the things that are laid out that they're responsible for doing. It's just, it's just too much.

Krissy Clark: I told Karen that when Jerry said that to Jan-Pro, he was told he just needed to be more efficient. Work faster. Strip and wax the floors to make them easier to mop.

Karen Miller: Yeah. Yeah. That was always part of it. You know, oh you need to speed it up. It should only take you two minutes to, you know, clean a whole bathroom. Well, that's ridiculous. And of course, you would tell them, oh, well, the faster you clean, the more money you make. Because, you know, you're getting more per hour.

Krissy Clark: That was another thing I wanted to get Karen's take on. How little money Jerry said he was getting per hour. Could it really be that low? Karen says, she remembers the first time she did the calculations herself.

Karen: I was doing their statements, their franchise statements and, you know, writing their checks and everything was like, oh, my gosh, like this is, you know, not good. When you look at it, you know, written down in black and white, it's like, oh, wow. Five dollars an hour.

Krissy Clark: She told me she had to brace herself for the day each month when the unit franchisees would come to the office to get their checks. Karen showed me one statement she gave to a unit franchisee that actually had a negative balance. For the month of work they had done, they actually owed her money. Eleven dollars and seventy-five cents, after fines and fees.

Karen: I mean. A couple of people, I was afraid they were gonna be violent. You know, they say, what the hell? Or you know, what? What? Why? I mean, I worked.

Did all this work, and this is what I'm getting. Yeah, it was not...it was not a good situation.

Krissy Clark: Karen says that she felt awful about this. That she tried to help her unit franchisees - paid some of their car notes, gave them advances. But she couldn't make the business model work, for them, or for her. When she'd started her master franchise she'd hung a sign up in her office. "Helping 600 Families to Prosperity." That's what she hoped to be doing, by selling these janitorial franchises to people. After running her master franchise for about a year, she was no longer under that impression. She closed down the business after a fire destroyed the office she was renting. She says, in the end, she lost hundreds of thousands of dollars of her life's savings and had her own disputes with the Jan-Pro parent company, about what she owed them.

When I talked to Karen, she validated so many of the frustrations and vague suspicions that Jerry, the janitor, had been feeling back when he confronted the manager in the master franchise office he worked out of, in southern California. But at the time, Jerry did not know that anyone else was having the same frustrations that he was having. But as he stormed out of the Jan-Pro office that day, he passed by other Jan-Pro franchisees, who were picking up their checks.

And that's when a third important thing happened to Jerry. He noticed the looks on all the other janitors faces.

Jerry: Everybody just looked so angry, so desperate.

Krissy Clark: And he thought to himself, maybe I'm not the only one this is happening too. And he wasn't.

Tameka: I hated to go in there to pick up the check. it's embarrassing, you go in there to pick up that little check. You're getting paid under minimum wage. You have no benefits.

Krissy Clark: Tameka Gordon bought a Jan-Pro unit franchise from the same master franchise in southern California where Jerry bought his.

When she and Jerry started talking, they realized they shared a lot of the same experiences, working really hard cleaning buildings but making barely any money. Like Jerry, Tameka had also brought on family members to help her with the cleaning. And she says they were getting paid so little, some of her family didn't believe her when she said that's all she could pay them.

Tameka: I had to literally let them see the check. I had to literally let them see the check cus it came in my name. I said here's the check. I throw the check on the table every day, everytime we got it, "Here's the check." They were like, this all we

made? My son be like, I'm quitting. You need to do something cuz I'm quitting. Yes. it was that bad.

Krissy Clark: The way Tameka and Jerry met was kind of improbable, given how shy Jerry can be. But, after that meeting where he stormed out of the Jan-Pro office, he'd gotten mad enough that, scary as it was, he started cold calling other Jan-Pro janitors, to see if anyone else was having the kind of trouble he was. He found people on internet message boards. He dug up lists of phone numbers that Jan-Pro is required by law to provide, of current and past franchisees in the area. And, then those people he talked to gave him even more names.

Jerry: I was nervous. Because you're calling up people and they're like who is this you know, they don't know if it's, you know, somebody trying to sell you stuff.

Krissy Clark: He'd try to start the conversations in a neutral, diplomatic way. Something like, "Hi, am I speaking to Tameka Gordon, the owner of a Jan-Pro cleaning business?"

Tameka: I said, I don't own no business! I said do you mean do I work for Jan-Pro? He said yes. And then we got to discussing what was going on with both of us, and it was the same stuff. You're not a franchise owner. You're an underpaid employee. It was like I was fooled into giving all this money to work for somebody.

Krissy Clark: Tameka grew up in Los Angeles, in subsidized housing. When she had her own kids, welfare and foodstamps helped her make ends meet. But by the time she was in her late thirties, she had found some financial stability.

She'd always dreamed of starting something of her own. Like Jerry, that was the thing that had drawn her to Jan-Pro in the first place. All the talk of how she could own her own business.

Tameka: It was big. Everybody, the radio, everybody was talking about Jan-Pro this, Jan-Pro that. Be a franchise owner, this and that. And what clicks in your head is owner. Owner, owner, owner! You're gonna be an owner!.

Krissy Clark: But she says once she bought a unit franchise, for more than \$20,000, that's not how it felt.

Tameka: Because i was told what to do. I was told what to do, how to do it, and what I can't do and who I can't speak to. I couldn't speak to anybody that worked in the building.

Krissy Clark: It was similar to what Jerry had faced, with the silencing looks and the business cards. If someone who worked in a building she cleaned had a complaint about her work, or if she had a question about something they wanted her to do, she says she wasn't supposed to talk to them directly. Even though they were theoretically her customers. She says people at Jan-Pro always wanted to be the intermediary.

Tameka: I had a problem, I had to talk to somebody at Jan-Pro. That's not an owner. You're an employee.

Krissy: You didn't feel like you were in charge.

Tameka: No. I felt like I had to go to my HR.

Krissy Clark: One of the problems with not being able to talk directly to her customers, Tameka explained, was that it made it harder for her to adjust her work to satisfy her customers. The kind of thing you're supposed to do when you're running your own business.

And on top of all that she says what also started happening over time, was that Jan-Pro started taking cleaning accounts away from her.

Tameka: They'll send us in there. We'll go general clean the building for two or three weeks, keep the building up nice and clean. They'll just take it away from us.

Krissy: And when you would ask, why did you take that away from us?

Tameka: They'll say, oh the owner said this. The owner said that. So one day I fooled him. I talked to the owner. The owner said no, I ain't never said that. I told them I wanted your crew back.

And what Tameka eventually realized is that Jan-Pro could actually *benefit* from kicking her off accounts. It's complicated enough that it took a while for her to figure this out — but here's what could happen.

Remember, how unit franchises were supposed to come with a set of guaranteed customers — that added up to a certain amount of money in yearly gross income? That was a big part of what you were *paying* for when you bought the franchise.

Well, when Jan-Pro took accounts away from Tameka, first of all, they could fine her for losing accounts. But they could also still count the building she wasn't cleaning anymore, as going toward fulfilling the yearly gross income she was supposed to get.

Krissy Clark: They would count anyone that they gave you, even if they took it away?

Tameka: Exactly. Yes.

So, even though she still had to make monthly loan payments to Jan-Pro for a franchise that was supposed to be bringing in a certain amount of gross income, she was actually making less than what they'd promised her in gross income.

Meanwhile, Jan-Pro could also turn around and take that building that they'd told Tameka to stop cleaning.

Tameka: And give it to somebody else.

and count it toward the amount of total "yearly gross income" that that janitor was paying for when he bought his franchise package.

This is a practice that's come under fire across the janitorial franchise industry — taking one person off an account, so you can give it to another one, and make money off it twice. There's even a name for this: "churning accounts." And Karen Miller says this was not uncommon in the business. In fact, she wound up doing something like this herself. She says she wasn't trying to make money by churning, but it was hard to avoid taking people off accounts.

Karen: You know, you would put a franchisee in a site and they nine times out of 10 could not live up to the requirements and the expectations. And so then you would put another franchisee in there and then you could charge the first franchisee for losing the account.

Krissy: So theoretically, you could be making money off of both of them.

Karen: Oh, yeah, absolutely. Yup.

Krissy Clark: In Tameka's case, she lost so many accounts that she eventually shut her franchise down. She says by the end, after all her expenses buying cleaning supplies and gas and paying fees and financing payments to Jan-Pro, she was spending more money to keep the janitorial business going than she was making from cleaning buildings. She says her credit was ruined, and she's still climbing out of the hole that she found herself in.

Tameka: That made me feel like less than an ant on the ground, the worst experience of my life. You think about it...how was i that dumb? To let my dreams just fall apart. I went through a depression stage. I felt like I didn't want to exist no more because it was like something that you always wanted. And it was like, it was just snatched away to me.

Krissy Clark: Tameka was just one of a growing list of Jan-Pro unit franchisees that Jerry talked to to compare notes. Each story he heard, fueled his anger, and his desire for justice. Some people said they were happy with their franchises. But he says, most people he talked to were not. Jerry showed me all the binders full of research he'd done. On one of them he'd made a label -

Krissy: I'm just reading:

Jerry: Yeah the Jan-Crap. Yeah.

Krissy: Just read what that one says on the front.

Jerry: The case against Jan-Crap.

Krissy Clark: The case against Jan-Crap. In another binder, he had hand written notes of all his conversations with other janitors he'd talked to.

Krissy: And you have pages and pages.

Krissy Clark: Janitors from all over the country.

Jerry: South Carolina. Ohio. Stamford, Connecticut; Las Vegas, Nevada; Garden Grove, California; Philadelphia, Pennsylvania. I'd call people and they'd just go on and on and on. These accounts are underbid, makes no sense.

Krissy Clark: There was the woman whose family signed the franchise agreement without understanding what it meant.

Jerry: Her parents didn't speak english, I think she was Korean.

Krissy Clark: There was the couple who invested ten thousand dollars in a franchise - and gave up because the pay was so low.

Jerry: They lasted one year and they ended up divorcing. Other people, they lost their houses. You know they put their whole life savings into Jan-Pro. Next thing you know, they can pay their mortgage. This person right here says makes less than minimum wage. This lady, she had an account where she was told that this customer was not happy so they took the account away, she comes to find out later on by talking to the customer that the customer was happy with her service, now she cleans that customer's house.

Krissy Clark: Page after page after page of people. Mostly low-income. Often immigrants. Or Black, or Latinx, or Asian.

And after hours of phone-calls and comparing notes, Jerry says there was this common feeling many of them had. As much as they'd dreamed of being entrepreneurs when they bought their unit franchises, they ended up feeling more like badly paid employees. Or worse.

Jerry: Felt like we were indentured servants. Like you can't leave Jan-Pro until you pay us this much money. It was basically just paying for a job, cleaning toilets after we had already paid them thousands.

Krissy Clark: In the summer of 2008, about a year after Jerry Vazquez first bought his janitorial franchise, he sent out a couple dozen fliers, in Spanish and in English, to all the Jan-Pro janitors that he could find working near him in southern California.

Ones he'd found going down that list of phone numbers he had. Ones he'd met in the parking lot of the Jan-Pro office, when they were going to pick up their checks. Eventually Jan-Pro actually banned him from going to the office. They told him they'd send him his checks in the mail, because they said he was making trouble with the other janitors.

But by then, Jerry'd already been in touch with a lot of them. He'd also started talking to some lawyers. And they'd suggested he get everyone together, to talk. So, he sent out these fliers, invited all the janitors he'd been talking to to come to a park near his house - Ayala park.

Jerry: So it says, **Sunday July 6 is the day we fight back. At Ayala park. We'll bring a few chairs but I probably won't have enough so you might want to bring one if you can.**

Krissy: I love that you were thinking about the chairs. People need chairs.

Jerry: Please bring a pen and paper. Let's see how together we can solve the one problem that has brought all of us together. Let's show Jan-Pro that they can't mess with us.

Krissy Clark: Jerry wasn't sure if anyone would show up. And secretly, he kind of hoped they wouldn't.

Jerry: I'm not the kind of person that likes attention. Like in classrooms, in high school and college, I'd always try to find the places where I could hide from the teacher. You know, I'd rather stay in the back and let other people talk.

Krissy Clark: But, he says, he was just so angry about the situation he and the other janitors were in.

Jerry: The anger sometimes will make you take action.

Krissy: Had you ever had an experience like that before where you pushed through your shyness?

Jerry: Not that I can remember. I think that this was my first time. And hopefully last. (laughter)

Krissy Clark: Jerry took me out to Ayala park one day.

Jerry: And, we are at Ayala park, in the parking lot.

Krissy Clark: It's a patch of grass with a few trees and a gazebo, right next to a giant freeway. There's a senior center at the park, where his parents used to go sometimes to get free breakfasts. We pulled over under a tree.

Jerry pointed out to me where he had stood that day in July, before the meeting he'd set up watching the parking lot,

Jerry: I was just out here by the grass just waiting for people.

Krissy Clark: And then, while Jerry was standing there half hoping no one would respond to his flyer, a car pulled in.

Jerry: And then another car shows up and then another car shows up. Next thing you know there's like fifteen or twenty of us.

Krissy Clark: There were families who came with their kids. Single moms, veterans. Black, brown, Filipino. Jerry says he could feel his face turning red. He was sweating.

Jerry: It was like I have no idea what I'm doing. I don't even want to be in this mess. I never asked for this.

Krissy Clark: They talked for a few hours. And by the end of the meeting, despite his anxiety, Jerry felt good.

Jerry: A little bit upbeat. Cuz we're like, yeah, we're finally gonna take some action and do something about what they're doing to us. If we all unite we can maybe get some justice.

Krissy Clark: Many of the people at the park that day decided to join a lawsuit. A lawsuit that would come to be known as Vazquez versus Jan-Pro Franchising International. That's Vazquez, as in Jerry Vazquez. The lawsuit has become a very big deal. After working its way through the courts for more than a decade, the case could determine the fate of hundreds of Jan-Pro janitors in California, and potentially hundreds of thousands of gig workers across all kinds of industries who make less than minimum wage. And the whole legal case hinges on that vague but powerful feeling Jerry had....

Jerry: Felt like I wasn't a franchise owner. Felt like I was an employee.

That's next time, on the Uncertain Hour.

CREDITS.....

That's it for this episode of The Uncertain Hour. Thanks so much for listening...

And if you like what you've heard -- please tell a friend, leave a review, send us a note . Have you ever been a "non-employee"? We want to hear about it. Our email is uncertainhour@marketplace.org.

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